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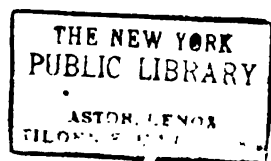
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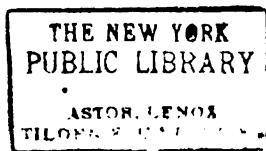
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SAN ANTONIO, TEXAS

The Bailey Controversy in Texas

WITH LESSONS FROM

The Political Life-Story of a Fallen Idol

IN TWO VOLUMES

BY

WILLIAM A. COCKE

OF

SAN ANTONIO, TEXAS

VOLUME I

1212
Woe unto you, scribes and Pharisees, hypocrites! Ye make clean the outside of the cup and of the platter, but within they are full of extortion and excess. Ye are like unto whited sepulchres, which indeed appear beautiful outward, but are within full of dead men's bones, and all uncleanness; ye outwardly appear righteous unto men, but within ye are full of hypocrisy and iniquity.—THE SCRIPTURES.

Was the following written of Buckingham or a forecast of Bailey?

* * * It grieves many,
The gentleman is learned and a most rare speaker,
To nature none more bound; his training such
That he may furnish and instruct great teachers,
And never seek for aid out of himself; yet see,
When these so noble benefits shall prove
Not well disposed, the mind growing once corrupt,
They turn to vicious forms, ten times more ugly
Than ever they were fair. This man so complete,
Who was enroll'd 'mongst wonders, and when we
Almost with ravish'd listening, could not find
His hour of speech a minute,—he, my lady,
Hath into monstrous habits put the graces
That once were his, and is become as black
As if besmear'd in hell.

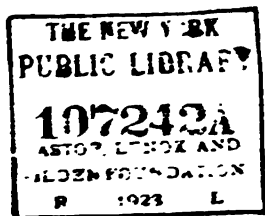
—SHAKESPEARE, in Henry VIII.

THE COCKE COMPANY, Publishers

SAN ANTONIO, TEXAS

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BAILEY AND THE FLAG, 1900.

"Have the people of Texas sunk so low as to elect for their representative *one who sells his services to the corporations?* The time will never come when they make that mistake: when they do, it will be the triumph of the enemies of the people over the virtues of the people. If they do, it will be a sad day in the history of the Commonwealth. If they do, well might the Lone Star, given to the Republic in its infancy, be lowered at half mast on the State Capitol."
—J. W. BAILEY before the Democratic State Convention at Waco, August, 1900.

"MY ENEMIES."

"We are going to bury them [his enemies] face down, so that the harder they scratch to get out, the deeper they will go towards their eternal resting place [hell—?] * * * If I live, not one of their kind will ever again disgrace the State of Texas by holding office under its authority. * * * I will not forgive them this side of the grave."—J. W. BAILEY to Thirtieth Legislature, February 27, 1907.

THE DOCTRINE OF HATE.

"The man or the politician who cannot listen, dispassionately and profitably listen, to criticisms from his fellow men, without a flood of anger and revenge filling his heart with bitterness and hate, must be very wicked (guilty) or very weak; perhaps both. 'Whom the gods would destroy, they first make mad.'"—WILLIAM A. COCKE, at anti-Bailey Banquet at Dallas, June 14, 1907.

THIS VOLUME.

Its object, truth; the plan, research; the process, reason; the result, information; the aim, patriotic inspiration.

IMPARTIALITY.

Thy country and its honor alone consider. Forget thy prejudice; forsake thy bias. Regard not men; only the principles, ideals, and practices for which they stand.

Master first thyself; thy temper calm; thy tongue restrain. Look, listen, learn; so shall reason reign, prejudice flee, truth triumph, the trampled long, and patriotic ideals be established as the only safe guides to civic righteousness. So, also, shall honest and enlightened self-government prevail and disappear not from among the sons of men.—*The Author.*

POLITICS.

To let politics become a cesspool, and then avoid it because it is a cesspool, is a double crime.—No man should be a partisan in the sense of one who votes for his party, right or wrong.—*Howard Crosby.*

OFFICE.

If ever this free people—if this government itself is ever utterly demoralized, it will come from this incessant human wrangle and struggle for office, which is but a way to live without work.—*Abraham Lincoln.*

CONSCIENCE.

Cowardice asks, Is it safe? Expediency asks, Is it politic? Vanity asks, Is it popular? but Conscience asks, Is it right?—*Punshon.*

He whose principles are thoroughly established, will not be easily led from the right path. The decrees of Heaven are not immutable, for tho a throne may be gained by virtue, it may be lost by vice.—*Elbert Hubbard.*

He who wrongs himself, sows nettles in his own heart.—*Confucius.*

He who wrongs another, wrongs both himself and that other; he who betrays a public trust, has his crime thereby increased as is one man to a multitude of men.—*The Author.*

Graft, grand or petty, is moral, financial and spiritual skidoo for any man who indulges in it.—*Fra Elbertas.*

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DEDICATION.

To my fellow members of the Thirtieth Legislature of Texas, both House and Senate, who, in the matter of the Senatorial Controversy then pending, were willing to sacrifice, if necessary, their own political fortunes, by putting official purity above partisan expediency; to those Democrats of Texas and of the Nation, who believe that no party is worthy of the confidence and support of the people that does not imperatively require of its candidates, its nominees, and its elected officers, absolute devotion to the interests of all the people, as against the exactions and machinations of individual or corporate wealth for the oppression of the people; to the honest, liberty loving citizens of all parties everywhere, who believe that a man cannot faithfully "serve two masters," who value truth and candor, and condemn falsehood and deceit, in public men; to all those who believe that the preservation, perpetuation and perfection of representative government among men, in its purity and power for good, especially as our country grows in years and in the gravity of its social, economic and political problems, depend largely upon the integrity and fidelity of our representatives in governmental affairs, and their unselfish devotion to the exalted ideals of patriotism bequeathed to us by our American fathers;—to all such, this Volume, in behalf of those standards and of those ideals, is respectfully dedicated by

THE AUTHOR.

PREFATORY OBSERVATIONS.

Towards the closing days of the Suppression Committee's (usually, though inaccurately, styled Investigation Committee) work, the Author began to ponder how the results of the agitation might best be presented to the people of Texas for their impartial consideration. Necessarily no large number of the people could find time or opportunity to read the voluminous record involved. Then, too, the record as developed at the hearing, was unavoidably disconnected inasmuch as the trial was hurriedly undertaken and the witnesses examined, not in logical order, having regard to the chronology or numerical order of the charges, but rather as they appeared in Austin from day to day, without reference to the charges about which they testified. Again there was a mass of information that reached the proponent of the charges, not conclusive always, of course, but which he thought should have been traced to its sources and the value thereof ascertained. In addition to these considerations, it was thought that a general review of Mr. Bailey's public, and especially his Senatorial career, might be of general interest and be made, perhaps, a valuable contribution to the political history of the State.

At first only a forty or fifty page pamphlet review of the testimony was in contemplation, but the considerations above stated gradually developed in the mind of the Author, finally resulting in a determination to offer this volume to the public. This determination was heightened by the final outcome of the Suppression Committee's work (and in referring to the Committee throughout this volume, the Pro-Bailey majority of the House Committee is referred to unless otherwise stated) and the precipitate action of the House and Senate, whereby the issues involved were not settled but rather intensified. Mr. Bailey's final threat on the night of his so-called exoneration, wherein he proclaimed an unremitting political warfare against those who had sought to postpone his election until after an investigation, and who then refused to vote for his exoneration until they had been allowed an opportunity to receive and consider the evidence, also increased the writer's conviction that a somewhat extended treatment of this affair might not be untimely.

After consultation with many friends of the cause of official purity, as viewed by the so-called anti-Bailey people of the State, it was determined to issue this volume and the same is submitted to the public without the slightest feeling of personal enmity towards Mr. Bailey or his political supporters, but rather in the hope that

some light may be thrown on the past, pending and prospective issues growing out of this memorable political and commercial controversy in Texas.

All unnecessary references to Mr. Bailey's private character and affairs have been avoided as inappropriate to this discussion, and while the Author has not found as much to praise in Mr. Bailey as he once thought was due him, yet a sense of duty, if not an impulse to be generous where generosity could be shown without a sacrifice of principle, has impelled the Author to make such allusions to Mr. Bailey's better impulses as the writer's estimate of his character and career would justify.

The plan of work is best disclosed by the outline of contents: Much of the Author's Comment throughout has necessarily been included in brackets, thus [].

An appendix has been added, in which is included some of the most noteworthy addresses, as well as valuable contributions by others—data that could not very properly be included in the body of the work, and yet worthy to be preserved for its historic and argumentative value and force.

Necessarily the work of compilation and authorship has been done under difficulties—at odd intervals, now and then, snatched from the necessary exactions of professional employment and the distraction of multiplied interruptions. An earnest effort has been made, however, to make the work comprehensive and accurate, and to prepare the same in a spirit of fairness and conservatism. How well or how poorly the labor has been performed, how many inaccuracies have been committed, how much, if any, merit has been achieved, must be left to the discernment of a considerate public.

WILLIAM A. COCKE.

BIOGRAPHICAL MENTION OF THE AUTHOR.

Inasmuch as book readers usually desire to know something at least of the individual who seeks to impose his or her thoughts upon them, it has been deemed not inappropriate to here insert the following brief mention of the author, not by himself, of course, but by his campaign committee. The paragraphs which follow were offered to the citizenship of Bexar County in behalf of the author's candidacy for the Thirtieth Legislature of Texas before the Democratic primaries July 28, 1906. The matter was, therefore, prepared many months before the Senatorial agitation arose. The sketch referred to was written by a San Antonio lawyer—a Bailey man—and is as follows:

"William A. Cocke is a native Texan, of distinguished American ancestry. He was born in old Nueces Town, Nueces County, near Corpus Christi, September 24th, 1874, and was reared in the mountains of Kerr County, Texas. With that same sturdy determination which led his ancestors to settle in Virginia and North Carolina in colonial days, he left the farm at the age of fifteen, to make his way in the world, working long enough to accumulate funds to sustain him through a year's schooling in the public schools, and after his funds were exhausted returned again to work for further funds to assure his education. In this manner he obtained a common school education, and followed various occupations—clerk in a country store; harvest hand; school teacher. At the age of twenty he had accumulated sufficient funds to engage in the wood and feed business in Taylor, Texas, and at twenty-one owned and managed his own farm in Kerr County, Texas.

"He married Miss Brownie Rees, of Center Point, Texas, September 20, 1896. Thereafter he sold his farm, and conducted a successful mercantile business in Center Point, Texas, until Christmas night, 1900, when fire laid waste his business and left him penniless. (He had no insurance.)

"Misfortune did not blight his ambition nor destroy his courage. With the same fortitude which inspired his great ancestor, William Cocke, the North Carolina diplomat (to whom President Roosevelt pays a glowing tribute in his "Winning of the West"), he took up the battle of life anew; and with the same high courage and persistency which won laurels for his soldier ancestor, General John B. Cocke, of the war of 1812, he planned new victories.

"With a wife and two children to support, he moved to San Antonio, Texas, February 11th, 1901, and took up the study of stenog-

raphy as affording fair revenue and better opportunities to study the profession of law, to which his ambition always aspired. He was in the office of Denman, Franklin & McGown until the summer of 1901, when he took employment as stenographer with the law firm of Ball & Fuller, and remained with them until November, 1901, when he left them to take service with the law firm of Houston Bros. He remained with Houston Bros. until September, 1902, at which time he accepted the position of private secretary to President William L. Prather, of The University of Texas. This employment afforded him the opportunity to take the law course in The University of Texas, although he had been previously admitted to the bar under examination.

"His record during the two years in the University is a splendid illustration of industry and ability. On January 17, 1903, he won the Gregory and Batts prize, as the best debater in the University. On April 20, 1903, he, with his colleague, J. B. Dibbrell, Jr., won the unanimous decision of the judges for The University of Texas, in debate with Tulane University at New Orleans. Judges of the Supreme Court of Louisiana sat as judges of this debate. He completed his law course and received the degree of Bachelor of Law on June 8, 1904, with a class record which placed him among the first three or four men of his class. While he was winning these laurels as student and debater, he was performing the arduous duties of private secretary to President Prather of the University, and thus supporting his family and sending a sister to a private academy.

"He returned to San Antonio in the summer of 1904, becoming associated with Mr. Guy S. McFarland in the practice of the law, under the firm style of McFarland & Cocke. This relationship continued until Mr. McFarland was appointed Referee in Bankruptcy in January, 1905, necessitating a dissolution.

"Mr. Cocke later organized the law firm of Cocke & Cocke, consisting of himself and his cousin, Emmett B. Cocke, formerly of Floresville, Texas. In October, 1905, Mr. C. C. Harris, District Attorney of the 38th Judicial District, became a member of the firm.

"Mr. Cocke needs no word of recommendation to those who know him. His splendid ability, his industry and his integrity, win for him the confidence and respect of all who come in contact with him. His unqualified success in the practice of his profession during the brief time he has been engaged in the law is a sufficient guarantee that he will represent the people of Bexar County with zeal and devotion, if they elevate him to the position to which he aspires.

"Mr. Cocke's family are not strangers in Bexar County. His uncles, Fred Cocke, and Jack Cocke, practiced law in this city for many years, and are well known to old residents here. Captain Fred Cocke was District Attorney for this district for six years, and won the esteem and confidence of the people of this community for the splendid service he rendered them in that position.

"The sturdy Americanism with which his ancestry has endowed him does not tolerate the idea of a public servant representing special interests, and he does not seek the suffrages of the people of Bexar County as the candidate of any faction or clique. He recognizes no class distinction in our common country, and believes that our people are all equal before the law! that no man can represent all the people who believes that some of the people are entitled to special privileges or immunities. He is not trammelled by pledges to any organization, nor is he biased or prejudiced in favor of or against any special interest of Bexar County. He seeks to serve all the people all the time, not some of the people all the time. He believes that public office is a public trust, not a public opportunity to advocate private interests.

"Confident that he is well qualified to represent the people of Bexar County in the State Legislature, we solicit your vote for him, with the assurance that he will, if elected, honestly and sincerely represent all the people, unhampered by promises or pledges to special interests or organizations.

"Mr. Cocke has prepared and we herewith present a brief outline of some of his views on pertinent public questions involved in this campaign."

(Signed) COMMITTEE."

MR. COCKE'S PLATFORM.

"I Believe—

"That we have too much legislation; that we should have as few new laws and as few amendments as changing conditions will permit; that existing laws should be enforced or repealed.

"That our State Constitution should be so amended as to provide a regular legislative session every four years, with special called sessions limited to actual current needs; that the number of our legislators should be reduced about one-half and their compensation proportionately increased;

"In a law calculated to abolish the free pass evil (nor will I accept passes and franks though not prohibited by law);

"That Texas should be put and kept on a cash basis;

"That tax valuations should be so revised as to remove the inequalities and injustice by which some counties deplete the school fund at the expense of others, and at the same time deprive the State of necessary revenue;

"That the State's educational and eleemosynary institutions should be liberally supported, under efficient and economical management;

"That our educational system should be broadened so as to include scientific instruction in mechanical, agricultural and kindred topics:

"That our Criminal Law should be made less technical and its delays minimized;

"That the State should adequately compensate its servants and employees, thus securing a higher class of service.

"In a reasonable inheritance and income tax law;

"In the useful employment of State and County convicts, in such ways as not to compete, unnecessarily, with labor;

"That, our anti-monopoly laws, should be faithfully enforced, without demagogic blare, which would injure legitimate development, at the same time protecting all classes;

"I believe in labor unions conservatively conducted, but that the public should be protected against excesses, whether of labor or capital. My sympathies are with the masses in their efforts to attain to higher standards of life and of thought;

"That trading in the suffrage of our fellows should be prohibited, as a species of dishonesty with ourselves and our country; that it is our patriotic duty to vote for and support the fittest candidate for office, regardless of personalities and friendships;

"That legislators should be selected with reference to their fitness for public service only; that they should be chosen to represent all the people, including laborers and capitalists, alike, impartially, and not to represent some one class or special interest;

"I was asked to make this race with the distinct understanding that I was to be absolutely free and independent of any class, faction or special interest. I do not need, nor am I seeking a political 'job.' Having no axes to grind, if elected I shall have no class or classes to favor, nor any political prejudices to vent."

ANTIDOTES FOR BAILEYISM.

The short sayings of wise and good men are of great value, like the dust of gold, or the sparks of diamonds.—*Tillotson*.

Nothing is finally settled until it is settled right.—*Anon*.

Hue to the line, let the chips fall where they may.—*Selected*.

Keep cool and you command everybody.—*St. Just*.

Beware of the fury of a patient man.—*Dryden*.

In all things be just; in praise generous, in criticisms fair.—*The Author*.

When passion is on the throne reason is out of doors.—*M. Henry*.

To rule one's anger is well; to prevent it is still better.—*Tryon Edwards*.

When a man is wrong and won't admit it, he always gets angry.—*Haliburton*.

When anger rushes, unrestrained, to action like a hot steed, it stumbles in its way.—*Savage*.

There is not in nature, a thing that makes man so deformed, so beastly, as doth intemperate anger.—*John Webster*.

Great talents impose corresponding responsibility; talents prostituted to low and selfish ends are a menace to any people.—*The Author*.

Anger is the most impotent of passions.—It effects nothing it goes about, and hurts the one who is possessed by it more than the one against whom it is directed.—*Clarendon*.

Political leaders who have performed the function of clearing-houses for legislation, and who while posing as party workers have served under a retainer of special interests, careless alike of party principles or of public justice, are passing from the stage.—*Governor Hughes*.

An unjust acquisition is like a barbed arrow, which must be drawn backward with horrible anguish, or else will be your destruction.—*Jeremy Taylor*.

Deliberate with caution, but act with decision; and yield with graciousness, or oppose with firmness.—*Colton*.

Patriotic statesmen bow not down to golden calves, nor glittering idols, formed and fashioned by the flippant fingers of the mammon masters of the wilderness of stolen wealth.—*The Author*.

It is good for man to suffer the adversity of this earthly life; for it brings him back to the sacred retirement of the heart, where only he finds he is an exile from his native home, and ought not to place his trust in any wordly enjoyment.—*Thomas a Kempis*.

Moral cowardice is the greatest weakness a man can have—it is more disastrous than either error or indiscretion.—*Bryan's Commoner*.

When a man has been guilty of any vice or folly, the best atonement he can make for it is to warn others not to fall into the like.—*Addison*.

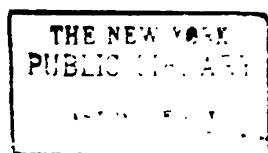
It is a good divine that follows his own instructions. I can easier teach twenty what were good to be done, than be one of twenty to follow mine own teaching.—*Shakespeare*.

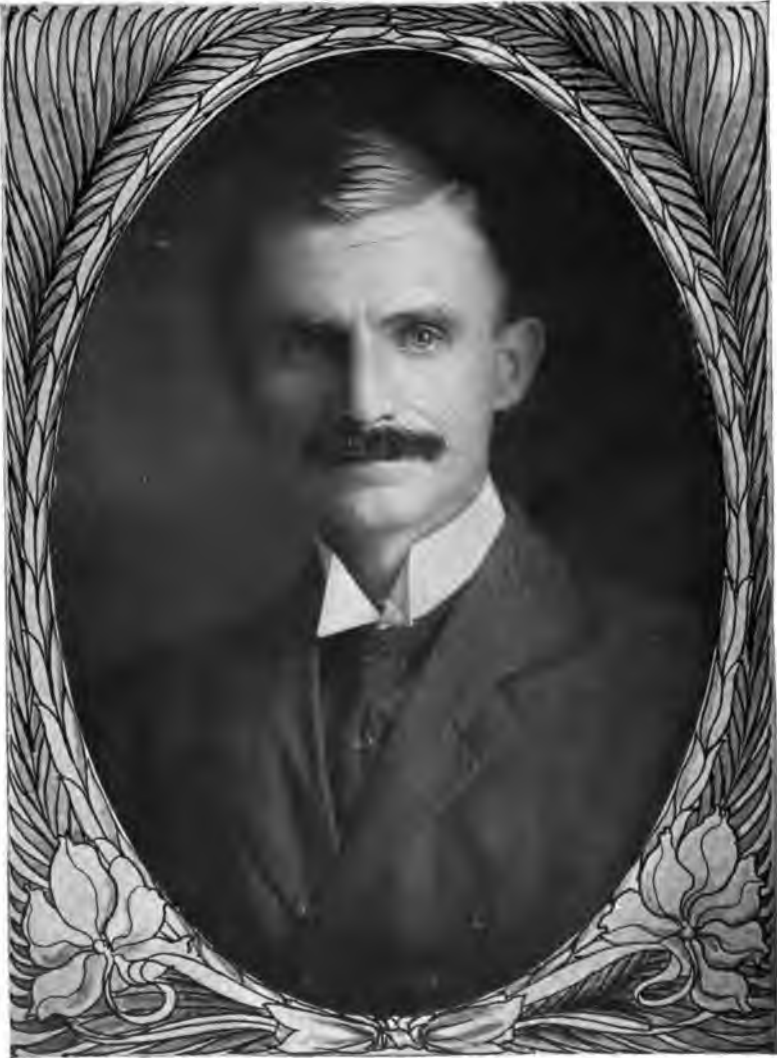
As with "error", so also with the erring public servant. "Wounded" by the shafts of "truth" long concealed from the public gaze he, too, in the hour of his exposure, "writhes in pain and dies amid his worshippers."—*The Author*.

They that will not be counselled, cannot be helped. If you do not hear reason she will rap you on the knuckles.—*Franklin*.

Judge Lindsey of Denver says Mr. Guggenheim bought a United States senatorship. Mr. Guggenheim did not blaze any new path when he performed that little stunt.—*Bryan's Commoner, August 2, 1907*.

Whoever makes two ears of corn, or two blades of grass to grow where only one grew before, deserves better of mankind, and does more essential service to his country than the whole race of politicians put together.—*Swift*.





HON. E. G. SENTER,
DALLAS, TEXAS.

The Bailey Controversy in Texas

WITH LESSONS FROM

The Political Life-Story of a Fallen Idol

CHAPTER I.

HOW AND WHY THE AUTHOR CAME TO OPPOSE MR. BAILEY.

That the author was friendly to Mr. Bailey prior to the disclosure of his long concealed connections with the trusts, and not one of his "enemies," is conclusively shown by the following letter, dated Senate, Washington, April 28, 1906:

"Mr. W. A. Cocke, San Antonio, Texas.

"MY DEAR MR. COCKE: I have received your letter of the 25th inst.; and I will take great pleasure in sending you a copy of my speech delivered on the 10th inst. I am inclined to think that I have already sent one, but that was, perhaps, addressed to your firm, and I send you another in the same mail that brings this. [Here followed a brief discussion of the rate bill situation.] Thanking you for your letter, I am,

"Very truly yours,

"J. W. BAILEY."

While the author has always disapproved of Mr. Bailey's original participation in the matter of the readmission of the Waters-Pierce Oil Company to do business in Texas, whether for friendship or other considerations, still he did not originally suppose that Mr. Bailey was paid for said service, nor that there was any conscious

guilt of wrong doing on his part. The author was an admirer of Mr. Bailey, though he did not know him personally, and voted for him in the July primaries of 1906. He did not so much as read the *Cosmopolitan* articles, against Mr. Bailey, which appeared in July and August, 1906, until after the disclosures by the Attorney General of Texas, in December, 1906. His admiration of Mr. Bailey up to the last mentioned date, was sincere and cordial, based solely upon his reputation.

Mr. Pierce's testimony in Saint Louis on the 10th day of September, 1906, attracted attention, and Mr. Bailey's speeches in Texas, together with his interviews in the newspapers during the fall of 1906, aroused apprehension.

The disclosures by the Attorney General of Texas in November and December, 1906, in the suit pending in Travis County against the Waters-Pierce Oil Company, which disclosures connected Mr. Bailey in a monetary way with the readmission of that company to Texas, in 1900, were a great surprise. Judgment, however, was suspended until Mr. Bailey came to Austin and after several days laborious consultation with numerous friends, issued his reply to the Attorney General on December 7, 1906. Said reply contained so many admissions and disclosed such a studied course of concealment on Mr. Bailey's part during the previous six years, as to utterly shake the author's faith in his integrity as a man, as a citizen, and as a representative of the people. Shortly afterwards the author secured a copy of the 1901 investigation record and concluded that Mr. Bailey had not disclosed the whole truth to the committee of the Twenty-Seventh Legislature six years before.

About this time, that is to say, about the middle of December, 1906, at an accidental meeting with Colonel Jot Gunter at luncheon one day in the Elite Hotel in San Antonio, and after considerable argument, he suggested that the author should resign. The people had laid upon the Legislature a duty, under the United States Constitution, of selecting a proper Senator, and while the author was perfectly willing to pass the question back to his constituents, he did not think it proper to do so without first investigating the facts, and thus enable them to judge of the correctness of his own conclusions. About the 20th of December, 1906, Mr. Bailey visited San Antonio, and the author was asked by mutual friends to call upon him. Feeling that an investigation was in order, the author did not care to discuss Mr. Bailey's guilt or innocence with him, and declined to see him. While in San Antonio he gave out an interview to the effect that he would return to San Antonio, during the holidays and deliver an address. In the same interview he said, in effect, that all those members of the Legislature who questioned his conduct and did not propose to vote for him, right or wrong, should resign and stand for re-election. This was regarded by the author as a political trick on Bailey's part, and subsequent events have confirmed that conviction.

BAILEY CHALLENGED TO DEBATE.

IN view of his demand for the author's resignation, and in view of his proposed public address in San Antonio, it was determined to ask him to divide time upon the occasion of that address. Thereupon a letter was addressed to Mr. Bailey, and given to the press at the same time, asking for a division of time. Said letter was as follows:

"Hon. Joseph W. Bailey, Gainesville, Tex.

"SIR: From newspaper comments upon and reports of your recent visit to San Antonio, it is understood that you propose delivering a public address here within a week or ten days, in the interest of your candidacy for the United States Senate.

"Inasmuch as you are demanding the resignation of all members of the Texas Legislature who do not propose to vote for you, right or wrong, and inasmuch as I do not conceive it to be my duty to my conscience, to my constituents, to the Democratic party, or to the people at large, to accede to this demand on your part, and in consideration of the further fact that I have now made up my mind, based upon your own admission through the press and your public utterances, that it becomes my humble duty to oppose you for the high office that you seek to retain, it follows, logically, that I should contribute my mite of effort towards your defeat and consequently towards the preservation of proper standards and ideals in our public service and public servants. There are many honest citizens of Texas not your 'enemies,' but your erstwhile admirers and cordial supporters, who do not believe that you now maintain such standards and such ideals. They reach these conclusions reluctantly from your own admissions. An investigation could only add fuel to the flame and I suppose this is why you have been silent on the question of an investigation. *I am told that this course on my part is bad politics and bad Democracy. It may be bad politics and it may not be your kind of Democracy. As to the politics I care naught. And as to the Democracy, I prefer a different brand from the kind which would indorse your present civic standards and corrupt practices.*

"Having come to this conclusion, in view of your challenge that I should resign, and in the face of your numerous admissions, it becomes my evident duty to oppose one for whom I voted and for whom, with thousands of others I at one time entertained the highest respect, esteem and admiration.

"In view of the foregoing considerations, permit me to request a division of time with you on the occasion of your proposed address in San Antonio. This may appear to you highly presumptuous on my part, but inasmuch as I am not personally acquainted with any of your 'enemies' you may rest assured that *my position is not dictated by any other consideration than the preservation of the good name of Texas and of Democracy everywhere.* In this connection, permit

me to suggest that our friends arrange the expense of the discussion equally between us. This suggestion is made that each may feel that he is not a guest of the other. In case you conclude to divide your time with me, it is to be understood that the discussion on either side shall cover the widest possible range, and shall properly include a consideration of (a) duty and rights of the Texas Legislature in the premises; (b) your public record; (c) your professional employment while engaged in public life; and (d) your fitness to discharge the great trust which you desire to retain at the hands of the good people of Texas.

"An early and favorable response will be appreciated.

"Yours very truly,

"WILLIAM A. COCKE,
*Member-elect House of Representatives,
Thirtieth Texas Legislature."*

No answer was ever received to that letter, although courteous in its terms. About the first of January, 1907, the anti-Bailey campaign committee at Austin, invited the author to come over to Austin and help them out in their campaign against Mr. Bailey in Travis County. Consenting to do so, the first address in that campaign was delivered at the Courthouse in Austin, on the evening of January 2nd, to an appreciative audience of some 2,000 people. Four other addresses were made by the author in the county and on the fifth of January Mr. Bailey was defeated in the primaries by a majority of something less than two hundred votes. Mr. Bailey brought many "boosters" from distant parts of the state, and State Senator A. P. Barrett, of Bonham, acted as one of his lieutenants, handling a part of the campaign (slush) fund. Many of the citizens of Austin thought money was spent illegitimately. This much is certain: The only wards in the city of Austin giving Mr. Bailey a majority were those in which the worst citizenship predominates. He lost the more intelligent voting boxes in the city by a vote of about three to one.

On Sunday, the sixth of January, 1907, the author first met Senator E. G. Senter, of Dallas County, at the Avenue Hotel in Austin. We walked up Eighth Street to the Fire Engine House late in the afternoon and there conversed over the situation about an hour. The next morning Senator Senter and Judge John M. Duncan met in the author's room at the Sutor Hotel and went over the situation pretty carefully. The first formal caucus was held Tuesday night in the office of John Shelton, Esq., at which there were present about a dozen persons favorable to a thorough investigation. Among those present the author remembers Bell of Limestone, Cable, Camp, Johnson, Duncan, Gaines, James and Senators Greer, Grinnan and Senter. Mr. Senter was selected as chairman of our caucus and the author secretary. After that we met frequently while the Duncan resolution was under consideration by the House. The spirit

prevalent at these meetings was one demanding not a persecution of Mr. Bailey, but a thorough and impartial investigation.

When the Duncan resolution failed to pass the House, and was substituted by the Kennedy substitute, *it became necessary for some one to file charges, or else the proposed investigation would fail.* During the course of the discussion of the Duncan resolution, Mr. McConnell, of Palo Pinto County, who was supporting the substitute, in a coatless speech, called the supporters of the Duncan resolution "cowardly poltroons." *His charge was that none of us had the courage to file specific charges and father them. The author was sitting near the gentleman and determined at that moment that he would personally file the charges if that course should become neccessary to protect the good name of Texas from the dishonor and shame cast upon it by an unfaithful public servant.*

Mr. Bailey and his advisers did everything in their power to avoid any sort of an investigation. Failing in that, they gradually amended their substitute resolution until they could get enough votes to insure its adoption, as against the Duncan resolution. *The substitute called for specific charges and neither Mr. Bailey nor his partisan supporters expected anyone to assume such a responsibility.*

The charges were prepared, and that without suggestion or assistance from anyone. Of course, the author's information was gathered from time to time in conversations and from documents and letters available in the discussions leading up to the investigation. No one, however, read the charges before they were filed, except, of course, the stenographer who wrote them. Prior to the meeting of the Thirtieth Legislature the author had never met a single one of Mr. Bailey's so-called "enemies," *either in or out of Texas.* His opposition in this matter was taken entirely independent of any other consideration or influence than a conviction of duty. The committee forced a trial of the charges in two or three days after they were filed.

Concerning Mr. Bailey's oft-repeated complaint that his "enemies" should have brought his improper conduct and relations to the attention of the people of Texas before the Democratic primaries, July 28, 1906, the following signed letters to the author from the leaders who were active in the campaign against Mr. Bailey after Pierce testified in St. Louis, September 10, 1906, and after the publication of Waters-Pierce records during the last days of November, 1906, are important. They show conclusively that these leaders did not know the facts prior to the Democratic primaries. The letters follow:

From Hon. H. F. Ring, president Harris County Good Government Club, Houston, Texas, September 6, 1907:

"Replying to your favor of the 4th inst., will say that I never learned of the facts disclosed by the Attorney General's publication

of the vouchers relative to Senator Bailey until the same were published. I had no previous knowledge of the facts thus disclosed."

From M. M. Crane, ex-Attorney General of Texas. Dallas, Texas, September 5, 1907:

"Answering yours of recent date, I beg to say that I never knew anything of Mr. Bailey's financial transactions with the oil company and other public service corporations until the testimony of H. Clay Pierce, given at St. Louis, was printed in the daily papers [September 10, 1906] and I heard no details then and never ascertained any of the details until the Attorney General gave notice to the oil company to produce the vouchers in which Mr. Bailey's name figured."

From Hon. O. P. Bowser, ex-State Senator, Dallas, Texas, September 12, 1907:

"Replying to yours of the 4th inst., I beg to say I knew nothing of Mr. Bailey's association with Mr. Pierce until August or September, after the primaries of last year, nor of his negotiation with the Standard Oil Company until Pierce's testimony in the Missouri case. As to the vouchers, I knew nothing of those until they were made public by the Attorney General of Texas, sometime the latter part of November."

From F. M. Ethridge, Esq., of Dallas, September 9, 1907:

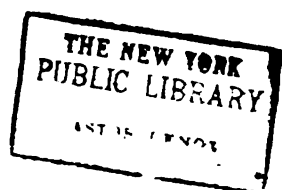
"Replying to yours of the 4th inst., beg to say that the first intimation I had of Bailey's negotiations with H. C. Pierce was when the testimony of the latter, given in St. Louis, was published in the public prints. I first learned of the facts disclosed by the Attorney General's publication of the vouchers during the last days of November, 1906, from that publication itself."

From Hon. J. E. Cockrell, Dallas, Texas, September 16, 1907:

"You asked in your last letter when I first knew of the facts with reference to Senator Bailey, developed in the correspondence between him and Attorney General Davidson. In reply, I beg to say that I knew nothing of these matters until the correspondence, as published in the newspapers, developed them."

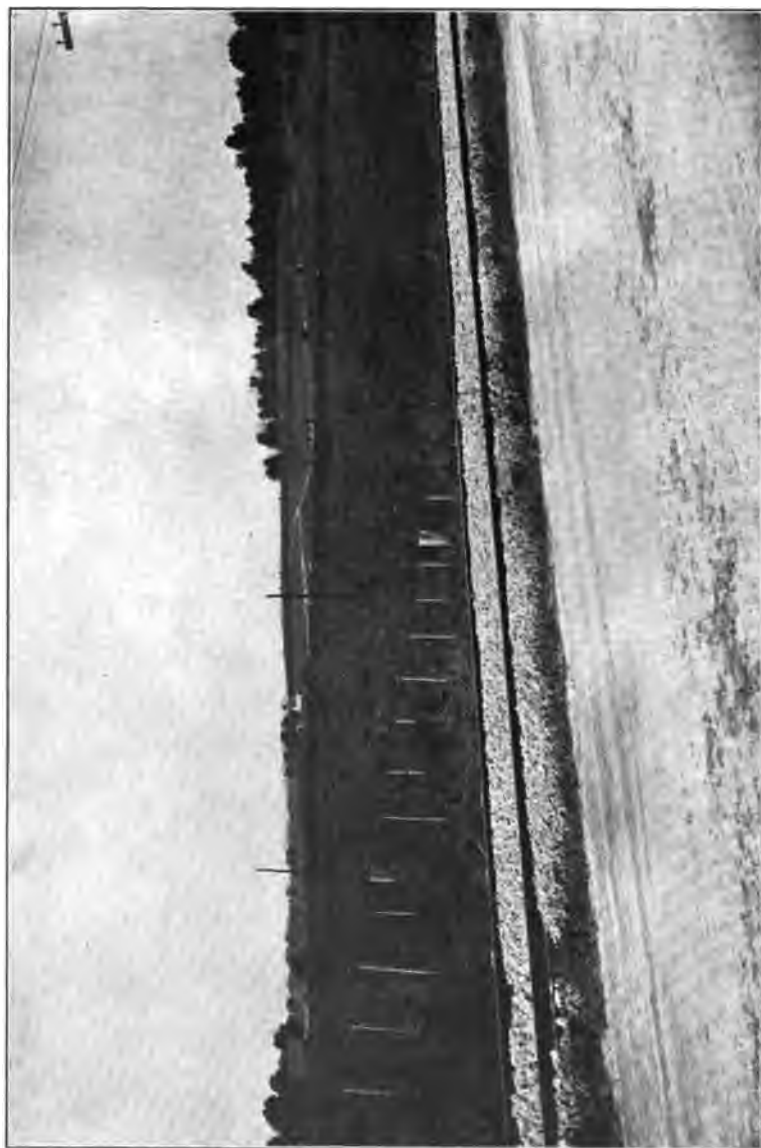
From Hon. E. G. Senter, State Senator, Dallas, Texas, September 13, 1907:

"Replying to your inquiry of the 4th inst., I beg to say that I first learned of the dealings of Senator Bailey with Pierce and the Waters-Pierce Oil Company through the published correspondence between him and the attorney general. I voted for Bailey in the primaries. My confidence in him was first shaken by his own admissions."



ONLY ONE OF BAILEY'S BLUE GRASS FARMS.

(Photo by Lexington, Ky., Photographer.)



Bailey testified that while he had operated horses in Kentucky for twenty years, yet that he never "owned a foot of land there prior to the time he met Pierce in 1900." Since then he has bought, as per list herein-after shown, nearly two hundred thousand dollars' worth of Kentucky real estate.

On January 5, 1907, Attorney General Davidson gave an open statement to the public press of Texas wherein he used the following language concerning the Bailey-Waters-Pierce record: "2. I learned of the existence of these documents about Aug. 25, 1906, and came into possession of them on Nov. 17, 1906. I never called on defendant to produce a single document which I had in my possession."

CHAPTER II.

MR. BAILEY'S ANTECEDENTS AND YOUTH.

While the great civil war was yet unfolding its bloody drama, on October 6th, 1862, in the town of Crystal Springs, Copiah County, Mississippi, there was born a now notorious American character. His star of destiny was to guide him from an uncouth and an uncultured atmosphere to the high pinnacle of fame, fortune and renown—from the environs of a liquor saloon to the exalted station of a United States Senator—from the role of a barroom bully to the dispenser of political influence for commercial pottage.

His career was to be marked by the one time love and unbounded admiration of a confiding people; as it was to close in shame and oblivion. By nature gifted beyond the lot of the average man, his brilliancy was to shine forth resplendently. If to the strength of intellect there had been added, in nature's mixing, the tender graces of gentleness and generosity, than he would have been few more worthy or renowned.

If self-love, self-indulgence, inordinate ambition, greed of gold, and lust for power had not swayed his very life, a patriot he might have been of large proportions, and of usefulness unbounded. Selfishness, self-conceit, and self-seeking, however, dwarfed his soul, absorbed his strength, misguided his efforts, beclouded his vision, destroyed his usefulness, blasted his hopes, embittered his heart, encompassed his career, withered his life, wrought his ruin utter!

What a lesson this to younger and less able men of his day and generation. "Proof this, beyond all lingering doubt, that not in mental, but in moral worth did God excellence place and meant it evermore there to dwell. To seek it else, as well seek mellow grapes 'neath icy poles, seek blooming roses on the cheek of death, seek immortality in a world of fleeting shades."

It is far more agreeable to commend than to condemn a public servant or a private citizen; it is equally more pleasant to praise than to censure. The muckrake business is as disagreeable as the necessity for the existence of the muckraker is unfortunate. It has been truly said, however, "as long as there is muck, there will be rakes"—and there should be.

The preservation of modern industrial and economic freedom to a self-governing people, no less than their ancient and historic political liberty, depends, now and always, upon "eternal vigilance." In a *representative* government, the perpetuity of political and commercial independence must largely rest upon the fidelity and integrity of our *representative* men. In a limited democracy, such as ours, ~~the~~ masses can act only through their chosen representatives, state

and national, and when these representatives lose the viewpoint of the people they remain not the delegated servants of the people, but become the paid tools of the enemies of the people, to-wit, the selfish, oppressive interests—the system.

In times of peace there are always afloat upon the high seas of commerce, pirates and freebooters. If the substance of the masses be ransacked and appropriated by these lawless devourers, to that extent is honest toil robbed of its reward and labor deprived of its sustenance.

If our public men cannot be relied upon to not only enact laws, but to aid in their vigilant enforcement, against the brigands of commerce, or the pirates of the ocean of graft (Standard Oil graft, if you please), then is representative government a mockery and our boasted self-government a pretense, a sham and a delusion.

When our public servants give aid and comfort to the enemies of the people, in their crusade against the commercial independence and liberty of the people, then it becomes the solemn duty of every citizen, whether public or private, to denounce their unfaithful public men as traitors to their country. For one, so long as there burns within the author's bosom a spark of love for this, his native state, or a scintilla of devotion to the best interests and highest ideals of his beloved country, he will denounce them; and this, too, though it should drive from him every hope of political preferment forever!

The private citizen or the public servant who remains silent when the institutions of his country are being slowly undermined and the historic ideals of his country are being shattered, is recreant to his duty. The man who sacrifices his political independence and honor to political expediency and dishonor, is to that extent a political coward and politically dishonest. A patriot, therefore, should "hew to the line, let the chips fall where they may."

It has been said that there is no history like biography. It would be impossible to intelligently review the political history of Texas during the past fifteen years, and especially during the last seven years, without extended reference to one of her United States Senators, concerning whose conduct and whose character there has been and now is a wide diversity of opinion. Mr. Bailey's public career cannot be well understood except by careful inquiry into the character *and antecedents of the man*.

The observations contained in this volume have been inspired by no other desire than to reach a fair and impartial estimate of the man in his public capacity. This cannot be done, however, without some inquiry into the manner of man whose characteristics and whose public conduct is under consideration. In short, a character study is essential to an accurate estimate and an impartial conclusion. To this end some brief references to Mr. Bailey's antecedents and youth have been thought, not only permissible, but appropriate.

It has been stated on many occasions, and the statement has been used for political effect in the South, that Mr. Bailey's father was

a Southern man and a Confederate soldier. As a matter of fact, the elder Bailey was a Pennsylvanian by birth and raising—at least he emigrated from Pennsylvania to Mississippi just before the civil war, in the employ of his uncles, the Weldon brothers. The latter firm was engaged as contractors and builders and Mr. Bailey's father was employed by them as a mechanic. In the language of a distinguished Mississippian: "The elder Bailey continued in the employ of his Weldon uncles until the civil war was well under way, and then he became engaged with them, or independently of them, *in the construction department of the Confederate service*, and is said never to have been actively enlisted or engaged *as a soldier in the ranks*. Three or four years after the civil war closed he went into the liquor saloon business in Crystal Springs, and continued in this business until finally forced out by law and an aroused moral sentiment of the people of Copiah County, during the '80's. The several old citizens with whom I talked all agreed without exception that Joe Bailey's father's reputation during his entire life at Crystal Springs was bad, bad, bad. Colonel W. S. Willing, an old lawyer of the place, says the records of the mayor's court in Crystal Springs and of the circuit court in Hazelhurst, the county seat, bear ample evidence, extending over many years, of the old man's devious ways."

Mr. Bailey, however, should not be held responsible for the conduct of his father, and it is to be said to his credit that he himself rose from the discouraging atmosphere of vulgar rowdyism to great prominence. It is extremely unfortunate, albeit, that he should have retained, up to this good hour, much of the viciousness, brutality and vulgarity incident to his antecedents and youth. While proper allowances should be made for the weaknesses of human nature, Mr. Bailey's later opportunities for the highest and most cultured accomplishment have been such as would have subdued and refined any other than the coarsest nature.

Our correspondent continues: "Young Joe's reputation up to the time he started to school at Mississippi College (at Clinton, Miss.) in the winter of 1878-79, at the age of seventeen, was likewise very bad. He was raised in the atmosphere of his father's saloon and served as barkeeper quite regularly from the time he was large enough until he started to school. There are a number of very disreputable stories about both Joe and his father which I will not particularize. I have interviewed several of the old citizens of Crystal Springs who knew the Baileys well, and Joe from his infancy. All of these agree that Joe was born in 1862 instead of 1863, as appears in the Congressional Directory, and all stated that his name was Joseph E., and that he afterwards changed it to Joseph W.

As to Mr. Bailey's real age, it would appear that he was born October 6th, 1862, although he seems to have given his birth as October 6th, 1863. He has frequently boasted of the alleged fact that he was nominated as an elector on the Cleveland ticket in 1884, before he was twenty-one years of age in the fall of that year. If he

was born in 1862 he was, in fact, nearly twenty--two years old at the time of his boasted distinction. This is a small matter, but little things count in the make-up of character, and the author is disposed to believe that he deliberately misrepresented the fact for this insignificant distinction—*he has done many things quite as foolish since*. Certain it is that he has frequently indulged in self-praise with reference to his having acted as an elector, but he has, with equal studiousness and duplicity, avoided referring to the fact that he was defeated by the Democrats of Copiah County as a candidate for the Mississippi Legislature before leaving Mississippi.

But let us return to some interesting incidents of his youth. His mother was Miss Harriet M. Dees. Joe was their second child and their only son, except one, who died in infancy. There were four sisters, one older and three younger than himself.

While Bailey was employed in his father's saloon he bought a chance at a horse and buggy that was being raffled off in the town, and this incident led to the beginning of an interesting career. "Joe Bailey already had one one-dollar ticket for this raffle," says our informant, "and when the time came for it to take place a tough character of the town who had taken a chance and had not paid for it was missing. Joe bought his chance so that the raffle might proceed, and this happened to be the number that won the horse and buggy, which was promptly sold for one hundred and fifty dollars in cash and furnished Joe what money he needed until his rich uncle (being William Weldon, his grand uncle) was enlisted in his behalf. All of these statements can be substantiated by old citizens of Crystal Springs."

It seems that Joe was persuaded by some of his acquaintances to embrace this opportunity for further educational development, and he entered the Mississippi College, at Clinton, Miss., in the fall of 1878. This was a Baptist school, and according to a statement made to the author by one of his associates there, "the moral and religious atmosphere was too dense for Joe, and in consequence he remained at this college only a few months."

While the author is not well informed as to the details of his career at this college, the following interesting and significant reminiscences, among others, are told concerning the future United States Senator from Texas. On one occasion he became very violent in a debate, in which he severely and in an ungentlemanly manner abused a fellow student from his own county, because said student in the course of the debate, took occasion to criticise certain political conditions with reference to which he and Joe differed.

In this connection, the following reminiscence by a prominent Mississippian is illuminating: "The first time I ever saw Bailey to know him was at a meeting of the Philoneathean Society, one of the two debating societies of Mississippi College, at Clinton, Miss., during the college session of 1878-1879. The session opened unusually late in 1878 on account of the awful yellow fever epidemic

which scourged portions of Louisiana, Mississippi and Tennessee that year. Bailey was one of the new students of that session, arriving a little while before, or just after the Christmas holidays. It was the custom for nearly every college student to join either the Philoneathean or the Hermenian Society soon after his arrival. Bailey chose to join the former, of which I was already a member, and which society I had represented at the opening of the session as its Fall Orator.

"The night I first saw him he was not on the regular debate, and my recollection is that it was the first time he had ever attended a meeting of the society. My attention was specially attracted to him by the rough and vicious way, during the irregular debate, in which he attacked a young fellow-student from his own county by the name of E. M. Barber. Barber was one of the members of the society who had been previously appointed as one of the speakers on the regular debate. During his discussion of the subject in hand (which was a semi-political one) he deplored and condemned ballotbox stuffing and fraudulent election methods as demoralizing, dangerous and subversive of republican institutions. He referred also to some of these evil practices that had come to his notice in his own County of Copiah. At that time there was in the western portion of Copiah County a voting precinct known by the unique but unromantic name of "Tail-holt." Tail-holt had an ugly habit of giving large republican majorities, and whenever the election in Copiah was likely to be close there was reputed to be a 'democratic mule' around Tail-holt that always ate up the ballot box and its contents before the returns were sent in. It was probably Barber's irreverent reference to that 'democratic mule' that aroused Bailey's indignation and caused him to reply to Barber, when the time for irregular debate arrived, *and to denounce him in almost unmeasured terms.*

"The two things which specially impressed me about Bailey at that time were the domineering, bulldozing spirit which has since become so characteristic of him, *and his apparent utter lack of moral perception or conviction.* The main point of his young fellow countryman's speech was never seen or appreciated by him.

"Even at that early stage of his career, however, though his delivery was halting and jerky, Bailey, nevertheless, displayed some of the oratorical ability for which he has since become noted.

"In less than five years from the time of the debating society incident just described, Joe Bailey took a leading part in the famous bulldozing campaign in Copiah County which culminated in a cold-blooded political assassination, and just ten years from the Barber-Bailey incident at college, Senator J. G. George, Mississippi's great Commoner, was making an active canvass of the state, appealing for a constitutional convention which might correct the demoralizing and corrupting political practices which Barber condemned and which Bailey so violently defended, even to the point of personal denunciation of his fellow-student from Copiah County."

At another time it seems that Joe acted as teller in an election of officers for the debating society, and as such was openly charged by a fellow member of the society with having cheated by fraudulently *counting his man in*. This raised a "rough-house." Pistols and knives were flourished freely and serious difficulty narrowly averted.

The author has in his possession signed letters from gentlemen resident in Mississippi who attended Mississippi College at Clinton with Mr. Bailey, from which the following interesting excerpts are taken: "This was the first institution in the way of a college that Joe Bailey ever attended, and he entered there during the session of 1878-79, shortly after the term opened, which was not very long before Christmas that year, on account of the terrible yellow fever epidemic which visited Mississippi in the summer and fall of 1878."

In another letter is the following language: "Mr. Bailey was not expelled from Mississippi College, but *went home for some reason and did not return*. He was expelled from the University of Mississippi, as you know."

In a third letter, all of which letters are from gentlemen of unquestioned standing, is the following: "He was regarded as rather wild and was not regarded as a good student. He was a hail fellow well met, however, and everybody liked him. I was in school with him here, at Clinton. He was here only a part of one session. He was not expelled from the institution, *but had some kind of trouble with the faculty and withdrew. My impression has been all the while that he withdrew to keep from being expelled.*"

After these experiences at this, his first selection of a college, the next school year, 1879-80, we find him enrolled as a student in the University of Mississippi, Oxford, Mississippi. In the meantime, his wealthy grand uncle, Weldon, had been interested in this scion of his family, and from that time forward for many years was Joe's exclusive banking agent, of which he has since had several; among them being the Standard Oil Governor of Missouri, David R. Francis, and the present fugitive from justice in Texas, H. Clay Pierce, sometimes known as "My Dear Pierce."

Returning, however, to the records of the University of Mississippi, and continuing this character study and sketch, it is interesting to note the following signed language, in the possession of the author, from the records of the University of Mississippi:

"The General Register of the University shows that J. E. Bailey was a freshman of the A. B. course during the session of 1879-80. Minutes of the faculty of the University of Mississippi, November 9th, 1880: J. E. Bailey reported by an officer of the institution as being 'at depot last Wednesday night.' November 16th, 1880: J. E. Bailey reported 'in town last Saturday night.' March 28th, 1881. Minutes, page 220, indicate that J. E. Bailey entered the University of Mississippi early in the session, *and that he left under circumstances that were not altogether above reproach; going to Vanderbilt University; that he returned in the spring and applied for re-admis-*

sion, having been at Vanderbilt. Case considered at some length, calling to mind the fact that the circumstances of his withdrawal were not altogether above reproach. Finally admitted *on condition of presenting a certificate of honorable dismissal from the Vanderbilt University* and on pledging *his word of honor* to strictly observe all the laws of the University and to faithfully discharge his duties as a student.

"The minutes of the faculty (page 240 in old book) show that J. E. Bailey was expelled June 14th, 1881. The University catalogue for the session of 1879-1880 contains the name of Joseph Edward Bailey, a B. S. Freshman from Crystal Springs. The catalogue of the following year has the same name as a B. A. Sophomore of Copiah County. The historical catalogue of the University makes no mention of the name of J. E. Bailey, but has the name of Joseph W. Bailey among the new students, 1879-80."

The author has in his possession data from the records of Vanderbilt University, showing that "Joseph E. Bailey attended that institution for a short time during 1881." One of the present professors of Vanderbilt University, who was a student of that institution with Mr. Bailey, says that he "knew Mr. Bailey as Joe, and as to his other initial he did not know; that he (Bailey) was asked by the Chancellor to retire, after he had been there only thirty days." The reason he was unable to assign.

From the above it is very plain that Joe was having great difficulty in remaining at any institution of learning longer than a very few months at a time. Having barely been re-admitted to the University of Mississippi, March 28th, 1881, after his forced withdrawal from Vanderbilt, *he was finally and formally expelled from the University of Mississippi June 14th, 1881.* "There can be no doubt, whatever," writes the present president of the Mississippi Press Association, in a personal letter to the author, "about Joseph W. and J. E. Bailey being one and the same individual. The exact date when he substituted the W for the E in his name is not easily ascertainable, but the weight of circumstance and testimony, as far as I can gather, is that it was done sometime between his *expulsion* from the University of Mississippi and his graduation in law at Lebanon, Tennessee, at Lebanon Law school, which he attended for the session of 1882-83, where he was registered as Joseph W. Bailey, Crystal Springs, Mississippi."

In the meantime, however, he had attended the University of Virginia for a short time, during the sessions of 1881-82, where he was registered as Joseph Edgar Bailey, from Crystal Springs, Miss. At that institution he pursued courses in law, Latin and Greek, but "it does not appear that Mr. Bailey passed his examinations in these courses," says a letter in the possession of the author, from the Registrar of the institution. "In December, 1881, Mr. Bailey was referred to the professors concerned for admonition on account of unexcused absences," continues this communication. In a conversa-

tion between an alumnus of the university and the author, the former related the following circumstance attending Joe's abrupt departure from this historic seat of learning. It seems that Joe became involved in a heated argument with his associate college debaters concerning the selection of a subject for a proposed college debate. The narrator said that all the interested debaters preferred a given subject, except Joe, who contended for the selection of the one of his choice. Failing in the accomplishment of his "own sweet will," this intellectual prodigy of the South, with a Northern lineage, forthwith shook off the dust of this ancient hall of learning and betook himself to the Lebanon Law School, at Lebanon, Tennessee, where he became a finished lawyer in the brief space of a single session.

It will be seen from the foregoing that at each of the five colleges he attended, to-wit: The Mississippi Baptist College, Clinton, Miss.; the University of Mississippi, Oxford, Miss.; Vanderbilt University, Nashville, Tenn.; the University of Virginia, Charlottesville, Va., and the Lebanon Law School, Lebanon, Tenn., except the latter, Joe Bailey's conduct was such as to bring him into serious and disreputable conflict with the professors or the faculties of all these institutions. *It will also be observed that his scholarship was below par at the four colleges and universities enumerated.*

While some good men have attained to worth and eminence despite disreputable beginnings, it will certainly be conceded, in view of after developments, that Joseph Edward (alias Edgar, alias Weldon) Bailey's early displayed *lawless habits* were the natural forerunners of his present utter disregard of all law and the rights and feelings of his fellow men.

Having completed the one session course at Lebanon, Mr. Bailey returned to Hazelhurst, the county seat of Copiah County, Miss., and forthwith became a candidate, not only for legal employment (*he had no political influence to barter at that time*), but a candidate for the Democratic nomination for the Mississippi Legislature. In this latter aspiration he was unsuccessful, and at the ensuing election, in the fall of 1883, he became the central figure in one of the most disgraceful and notorious chapters of crime and outlawery ever recorded in the South, and for which the Democratic party was sought to be made a scapegoat.

A record of these crimes will be found in the next succeeding chapters.

ANTIDOTES FOR BAILEYISM.

Not failure, but low aim is crime.—*J. R. Lowell.*

A man loses ground every time he loses his temper.—*The Author.*

In great attempts it is glorious even to fail.—*Longinus.*

When round you raves the storm
And winds run cold, then do not quail;
But spread your breast, drink in the gale,
And it will make you warm.

And never be dismissed
From getting your deserved desire.
Meet chill with heat, but fire with fire.
Resist, persist, insist!

Dare all. Do what you can.
Let Fate itself find you no slave.
Make Death salute you at your grave,
And say, "Here comes a man!"—*Selected.*

Rage and raving belong to brutes; calmness and reason to men.
—*The Author.*

The tallest trees are most in the power of the winds, and ambitious men of the blasts of fortune.—*Penn.*

Every man is his own ancestor, and every man is his own heir. He devises his own future, and he inherits his own past.—*H. F. Hedge.*

Pride thrust Nebuchadnezzar out of men's society, Saul out of his kingdom, Adam out of paradise. Haman out of court, and Lucifer out of heaven.—*T. Adam.*

The principles now implanted in thy bosom will grow, and one day reach maturity; and in that maturity thou wilt find thy heaven or thy hell.—*Thomas.*

Brilliancy of intellect is a blessing when directed by elevated and unselfish motives, a curse when prostituted to selfish ends.—*The Author.*

Always vote for a principle, though you vote alone, and you may cherish the sweet reflection that your vote is never lost.—*John Quincy Adams.*

The short sayings of wise and good men are of great value, like the dust of gold, or the sparks of diamonds.—*Tillotson*.

If you would yield not to temptation, go not by temptation's door.—*The Author*.

How little do they see what is, who frame their hasty judgments upon that which seems.—*Southey*.

Applause waits on success. The fickle multitude, like the light straw that floats on the stream, glide with the current still, and follow fortune.—*Franklin*.

He who establishes his argument by poise and command, shows that his reason is weak.—*Montaigne*.

Keep thy reason at high tide; so shall thy foolish anger remain at low ebb.—*The Author*.

When a man argues for victory and not for truth, he is sure of just one ally, that is the devil.—*G. Macdonald*.

Heat and animosity, contest and conflict, may sharpen the wits, although they rarely do; they never strengthen the understanding, clear the perspicacity, guide the judgment, or improve the heart.—*Landor*.

A social life that worships money or makes social distinction its aim, is, in spirit, an attempted aristocracy.—*Anon*.

The Republicans expose, convict, expel some of their grafters; we Democrats of Texas—be it said to our shame—honor and glorify ours.—*The Author*.

I never could believe that Providence had sent a few men into the world, ready booted and spurred to ride, and millions ready saddled and bridled to be ridden.—*Richard Rumbold*.

The ordinary employment of artifice is the mark of a petty mind; and it almost always happens that he who uses it to cover himself in one place, uncovers himself in another.—*Roche foucauld*.

It is meet that noble minds keep ever with their likes; for who so firm that cannot be seduced.—*Shakespeare*.

An honest man can make nothing in the public service.—*J. W. Bailey in 1901*.

CHAPTER III.

WHY BAILEY LEFT MISSISSIPPI.

At Greenville, Texas, October 1 (Dallas News, October 2), 1906, in explaining his friendship for Barnett Gibbs, a Mississippian, and giving that as a reason (?) why David R. Francis aided him in buying the \$100,000 Gibbs Ranch in Dallas County, which ranch was so purchased by Francis, it is believed, in consideration of Bailey's withdrawal of opposition to the St. Louis Exposition, of which Francis was president, Mr. Bailey said: "We had a riot and I was in it. * * * I did not steal any ballots and I would not let anybody else steal any ballots."

In the Senate, December 18, 1905 (Congressional Record, page 505), in a severe arraignment of Senator Burton, the Standard Oil Senator from Texas said: "If a man in an unfortunate personal encounter should be compelled to take the life of his fellow man, that might or might not unfit him to be a Senator. It would depend entirely upon the provocation. It sometimes happens that high-minded men are compelled by a sense of self-defense to slay; *but it never happens that a high-minded man attempts to line his pockets with dishonest gain.*"

As to whether or not Mr. Bailey was a party to the theft of "any ballots," and as to what "provocation" or sense or "self-respect" impelled him to act as the "captain" and ring-leader of a mob of 150 lawless characters before coming to Texas in the commission of brutish, cruel and premeditated crimes, including arson, murder and assassination, the following pages will be of especial interest.

The facts in this chapter set out were first called to the attention of the author during the suppression at Austin last winter by a patriotic blacksmith of North Texas. It required eight months, however, for the author to procure a copy of the official record, one volume of which he finally found in private hands in Mississippi. This volume was sent to the author with the statement that it was the only one known to be extant in Mississippi, as "the balance had been burned by interested parties." The volume thus procured was accidentally left on the M., K. & T. ticket window in Dallas, Texas, August 16th, in the hurry of catching an outgoing train. Although the volume had a name and address in it, the author has never been able to locate it by advertising or otherwise, notwithstanding the employes about the depot assisted as best they could. Evidently some Bailey partisan picked up the book, and as its margins were marked, readily discovered its great importance, and thus another incident in the effort at suppression was closed.

Later Volume No. 4, Senate Report 512, 48th Congress, 1883-

1884, was sent the Carnegie Library at San Antonio for the use of the author by the Librarian of the Congressional Library at Washington, under a system of exchange used in such cases. This report, together with the testimony thereto appended, contains 767 pages and the following startling facts are gleaned from said report.

U. S. SENATE ORDERS AN INVESTIGATION.

On January 29, 1884, the Senate of the United States passed a resolution ordering an inquiry concerning certain election outrages in Copiah County, Mississippi,, which occurred at and before the election (not a presidential year) of November 6, 1883. The matter was referred to the Senate Committee on Privileges and Elections and that committee in turn appointed a sub-committee, consisting of Senators Hoar (chairman), Cameron and Frye, to represent the majority (Republicans), and Senators Saulsbury and Jonas to represent the minority (Democrats). The sub-committee met and, pursuant to resolutions adopted, proceeded to New Orleans, Louisiana. In the latter city the committee convened in continuous session from February 15th to 27th, 1884, examining altogether 130 witnesses from Copiah County, Mississippi, the seat of the outrages. The Democratic members of the committee were given every facility to secure an unlimited number of witnesses. They summoned a considerable number of the members of the mob hereinafter described, (including "Captain" Joe Bailey), but after consultation with them, declined to put them on the stand. (Authority: Senate Report, pp. I to X.)

REPORT OF THE COMMITTEE.

Senator Hoar on behalf of the Committee on Privileges and Elections, submitted an exhaustive report (pages XII to XXVII), from which the following excerpts are taken:

"The Committee entered upon its task with almost inexpressible repugnance. Important public duties demanded the constant presence of all its members in the Senate. An investigation of the question whether communities of our countrymen have committed crimes like those supposed in the resolution, brings with it to all of us a deep sense of personal humiliation. The American people desire in this time of unexampled peace and prosperity to debate and settle other questions than those, merely to name which brings disgrace to the Republic itself."

THE WORK OF THE COMMITTEE.

"In obedience to the resolution of the senate, the Committee have investigated the occurrences alleged to have taken place in Copiah County. * * * The population is chiefly farmers and planters of cotton. The whites were shown by the testimony of many Democratic witnesses to stand high in character and intelligence, as compared with the people of their race throughout the state. No ques-

tion was made that the colored people were quiet, orderly, industrious and law-abiding. * * * The Republicans made no nominations of their own for these offices, but all the opponents of the Democratic party announced under the name of Independents, and placed in nomination a ticket *composed entirely of white men who were conceded by the Democratic witnesses before the Committee to be excellent men, unexceptionable in point of character and ability.* * * *

PROCEEDINGS OF THE ARMED COMPANY.

"A company consisting of about 150 persons was organized under the command of Erastus Wheeler, who had the title of Major [Bailey, as will be shown by the succeeding testimony, was Captain of this mob of which Wheeler was Major]. These men were mounted, 90 of them armed with guns, the remainder with pistols buckled around them army style or hanging on the horns of their saddles. * * * A considerable number of white men, formerly Democrats, were enlisted in the Independent movement. About two weeks before the election, the armed company above named began riding about the country, taking with them a cannon. * * * They killed, wounded, whipped and otherwise outraged a large number of persons. * * *

MURDER OF TOM WALLIS.

"Between one and two o'clock on Thursday night, ten days before the election, Tom Wallis, a respectable colored man, was in bed in his house with his wife; their baby and a little son were with them at that end of the house. * * * And the mob broke into the house, took him from his bed and attempted to throw a rope over his neck. As he threw up his arms to prevent them, he was shot, five guns being fired, and instantly killed, falling upon the skirt of his wife's dress. One ball went through the neck of the husband and the arm of the wife, [who afterwards died from the wound]. There were about twenty persons armed and mounted who came to the house. The road for thirty yards from the gate was full of armed horsemen.

"On the Friday night before the election they came to Isham Gillmore's house and began firing off their guns about it; some of the shot struck the house. * * * There were twenty or thirty of them. Wheeler, who was in command, took a light and said: 'Hello, Isham, come out and sit down and let's talk about politics.' 'I would not go out,' said Isham. 'The reason I would not go out I thought of old man Wallis and thought if I got out there while I was talking with him some of them might come and throw a rope over my head, and so I told them, no, I don't want to talk about politics; I had no politics to talk about.' He says: 'Well, by God, what is you gwine to vote? By God, if you are going to vote the radical ticket, you need not come on the ground, but if you are going to vote

the Democratic ticket you can come; by God we are going to kill out the whole God damned set and generation of radicalism.' When they went out the gate that night, I went out the back door, and I never went back but stayed out and only went back in the day and laid around in the fields. [Bailey, as will hereinafter appear, in referring to 'me and my friend Wheeler,' said: 'I went down in beat 3, me and my friend Wheeler. I had thought to stump the beat, but after I got down there in a portion of that country we came to the conclusion that I could do more *in the saddle* than I could on the stump. Therefore, we went around to electioneer, and I tell you when we started out we took along with us something like this (pulling out a long pistol). I tell you, my friends, it is the best method of electioneering I have ever seen. We would come to a house and my friend Wheeler would get right down and go right in and take a seat by the fire with those persons. And would electioneer a few minutes and they most invariably agreed to vote the ticket!"]

THE WHIPPING OF HANDY FORTNER.

"On the night that Wallis was killed, a little before ten o'clock the same crowd went to the house of an old man named Handy Fortner. About twenty of them took Fortner from his house three or four hundred yards to a place in the woods. * * * They inflicted a most brutal and cruel whipping and he was terribly lacerated. While they were beating him they asked him 'How he was going to vote.' * * * He told them in his terror and agony that 'he was going to vote the Democratic ticket.' They told him 'If he voted the Republican [Independent] ticket that they would blow his brains out.' * * * Some of the guns in the hands of these ruffians were new.

SHOOTING OF FRANK HAYS.

"The Saturday night before the election about fifty of the same party broke into the house of Frank Hays, a colored Republican, where he and his wife were in bed asleep. They shot him in the leg, which was broken by the shot. His wife was also shot in the throat and through the shoulder. Hays was badly disabled and unfit for any work when he appeared before the Committee on the 23rd of February.

BURNING OF DANIEL CRUMP'S HOUSE.

"About a week before the election a party of Democrats set fire to the house of Daniel Crump. This was about ten o'clock at night. Crump and his sons tried to extinguish the flames, but were shot at by the crowd and prevented. The house was totally destroyed. About twenty persons were said to have been there, of whom Crump recognized two, Little and Norman. His house and clothing were all burned up. This was a clear, plain case of arson, which, by the law of Mississippi, is capital and not bailable. * * * They

were arrested but allowed bail. A few nights after twenty-five men came to his place and threatened to kill Crump if he did not withdraw his complaint, which he did. They told him Mathews was dead, they thought Oliver was dead, and Mose Smith about dead. They reckoned to kill him that night and then the main people would be dead. * * *

TAKING INDEPENDENT TICKETS.

[Bailey may 'never have stolen any ballots or let anybody else steal any ballots,' as he said at Greenville, October 1, 1906, but the following is very significant.]

"Orange Catchings was an old man living in beat 5. The Republican [Independent] tickets were sent out to him on the Saturday before the election. He had given them to a neighbor named William Campbell to distribute on election day. On Monday night he heard the Democratic mob shouting in his vicinity and saw them ride by 'like men on dress parade.' They were armed with guns. About four o'clock Tuesday morning they came to his house, cursed him and threatened to shoot him, telling him if he didn't produce the tickets they would kill him.

"He [Jack Thompson, who was warned to leave the country] saw a large number of them ride by on Sunday evening, armed, about 100 in number, *some with veils over their faces*. The cannon and guns were firing. He mounted his horse and left the country."

SWORN NOT TO VOTE.

"At one o'clock Monday night before the election the 'procession' visited the house of Benjamin Sanderford, a colored Republican in Beat 5. His yard was full of horses and men. They dragged him undressed from his bed into the yard, seriously injuring him by striking against the door post, and compelled him to swear that he would not come to the polls. They returned two hours later and cried, 'Bring in your rope and let's hang the———.' The negro had left his house and lay concealed in his garden and so escaped.

VISITATION OF SOLOMAN SMITH.

"Soloman Smith lived in Beat 2. They came to his house Monday night just at dawn of day. He had heard them riding around firing all night. They rode around his house, broke down the door, went in and asked him for the tickets. * * * They said, 'God damn you, give up the tickets or we will shoot you.' He gave up the tickets. *One of the ruffians knocked him down and beat him over the head with a large horse pistol. They took the tickets away.* He thinks they 'made a clean sweep,' of the horses in his neighborhood. • Their horses seemed 'clean rode to death.' He was too badly injured to go to vote the next day.

THE "PROCESSION" AT WALLACE GILLMORE'S.

"About two or three o'clock on the night before the election the 'procession' visited the house of Wallace Gillmore, an old colored man. They broke in his door as he lay in bed with his wife. He counted nine who came into the house and fifteen more at the door, besides a large crowd out at the fence. They were armed with double barrel guns and pistols. They dragged him out of the house, compelled him to get on his knees, presented pistols to his face, demanded how he was going to vote and told him if he was going to vote the Independent ticket he had better 'Dig his hole and make his box before he went.' They also told him Print Mathews would be killed the next day. [Print Mathews was a highly respectable white man whose assassination the following day by Erastus Wheeler, having been selected for that purpose by 'vote' or 'lot', marked the climax of this lawlessness.]

THOMAS SINCLAIR'S EXPERIENCE.

"Thomas Sinclair, a colored man living in Beat 3, was the Democratic candidate for Secretary of State in 1869. He owns about a thousand acres of land, steam mill and good stock of all kinds—especially cows, horses, oxen, wagons, mules and hogs. He had joined the Independent party but left the county for fear of injury. He saw these bands riding by his door.

STORE SHOT INTO.

"John Smith has lived in Beat 3, fifty years; owns land, houses and cattle. He slept on the counter in his store. Saturday or Sunday night they shot into his store. The bullet ranged along where he was in the habit of sleeping. He got news that they were going to kill him and took to the woods, where he remained a little more than a week.

OTHER INSTANCES.

"Alex Gohagen, colored, owned property in Beat 3, for which he paid about \$10,000. Five men came to his door Sunday night before the election. They told him they had 144 men altogether. There was a cannon at the gate. He afterward heard the firing and judged the number stated was correct. * * * They then asked if he had heard of the killing of Tom Wallace. * * *

"Very early on the same Sunday night six men entered the house of Jeff Shields, who lived in Beat 3. They were about 100 outside armed with guns and pistols. They told him they were around electioneering and demanded who he was going to vote for. * * * One of them said, 'Throw that rope in here; we will hang him.' They began to prepare the rope and he finally promised that he would stay at home and not vote. Erastus Wheeler, the murderer, [Bailey's 'noble friend' and superior officer] came onto the door

step and said 'Old man, by God, I want to know how you are going to vote. * * * If you leave here Tuesday to go to Tailholt intentionally to vote the Independent ticket, you will have somebody digging your grave, for I will put you into the earth as certain as hell.' * * * Shortly before the election a meeting was appointed for the organization of a colored Republican club. A party of white Democrats, including Hargraves, brother of the Democratic sheriff; Hart, who shot Burnett [because he was said to have 'made sport of Bailey']; Bailey and Morrison, two Democratic lawyers, and others, rode over, broke up the meeting and compelled Oliver, who was to speak, to ride before them back to Hazelhurst. *The church was burned the following night.*

THE BAND AT AINSWORTH'S STORE.

"J. W. Bondurant is an active Republican and white man, dwelling in Beat 3. On Friday night before the election he saw this armed and mounted band, about 150 in number, at Ainsworth's store. * * * The mob shot off their pistols and cannon and halloed and whooped and yelled around. * * * The Democratic band came around the store shouting, 'Somebody had better get away from here.' They turned their cannon towards the store and shot it. One of them cried, 'Put a log chain in it and shoot the d—d thing.' Wheeler was in command. ['Captain' Joe Bailey, according to one of the witnesses, was called on for a 'speech.'] They rode away and rode back and fired their guns into the store. First two pistols or guns and then a continual firing. Two balls passed between Erastus Mathews and Bondurant, who were about a foot apart. There were also cries 'Bring them out and swing them up to a limb.' This was between nine and ten o'clock Friday night before the election [on Tuesday].

"It is impossible to relate the full details of the greater part of the outrages. * * * The meeting of the Independent Executive Committee, held at Hazelhurst the day before election, was broken up by the approach of the armed mob. Enochs, the Independent candidate for chancery clerk, was advised by a Democratic friend to leave town the day before election, which he did.

"Joseph P. Jones, the president of the board of supervisors, who had lived in the county from infancy, was warned that three men had been elected to kill him on the first opportunity. On Tuesday evening about two weeks before the election he rode up to a place by the roadside where about forty Democrats were in consultation. A proposition was made to take him off his horse and hang him, but the majority fortunately were against it. [How do you suppose 'Captain' Joe voted?]

"At a political meeting held sometime before the election near Erastus Matthews' store, Charles Allen, * * * moved that they 'go into Matthews' store and buy a rope and take Bufkin out and hang him.' Bufkin was an influential Independent; served in the

Confederate Army; had been the Treasurer of the county and was then supervisor in Beat 3. * * * There was a reign of terror all throughout the county. * * * Bufkin, a Democrat, testified that he asked Higdon, one of the leaders [Higdon was one of those, for whom with Bailey, warrants of arrest had been issued], if they were going to kill anybody and he said 'yes.'

THE MURDER OF J. P. MATTHEWS.

"But the most conspicuous crime is yet to be reported. J. P. Matthews was a merchant about forty-five or six years of age, of great capacity and energy and of large property. He and his wife belonged to old and respectable Mississippi families. He was a native of Copiah County, as was his father before him. He had been a Union man through the war. He had two sons in college and two daughters aged about nineteen and sixteen years. The wife and children all testified before the Committee. It would be difficult to find anywhere a family whose impression as they appeared before the Committee could be more attractive. There is no member of the Senate who might not be proud to introduce anywhere as his own the four children who came to tell us the story of the murder of their father.

MATTHEWS' CHARACTER.

"Mr. Matthews was one of the wealthiest and most successful business men in Copiah County. His dealings were largely with Democrats. He had been sheriff of the county six years by appointment from the Governor and once or twice by popular election. He was alderman of the city of Hazelhurst year before last. He was extremely public spirited, taking a great interest in schools and a liberal benefactor to churches. Persons in trouble and distress were wont to resort to him for sympathy and aid. The man who killed him was his debtor, and had been hospitably entertained beneath his roof a fortnight before the murder. There never was a charge against him of dishonorable conduct, or of an offense against the law. He was extremely hospitable, entertaining much company. He had more influence with both whites and blacks than any other man in the county. Many Democrats would vote for him who would vote for no other Republican. Wheeler, who killed him, had solicited his support for the office of mayor, for which he proposed to be a candidate, and had said, 'I had rather vote for him than for any man that is running for office from the simple fact that I never went to him in my life to get an accommodation that I didn't get it.' His wife said, 'He always helped anybody who was in distress, no matter who it was. They never came to him and went off without anything.' Mr. Millsaps, a *Democratic clergyman who had known Matthews since he was a boy and to whom he went to school*, testified, 'He was a very pleasant, peacable, quiet, good man, very charitable, generous and social in his disposition. I can say generally that he was as good a man as was in Hazelhurst, leaving out all idea of religion.'

"Mitchell, editor of the Covich Signal, the Democratic paper, testified: 'J. P. Matthews, personally, was a very clever, social man, but the people there regarded him as an agitator.'

"Judge Bridewell, an intelligent and able lawyer, who had been an officer on General Hardee's staff, testified: 'I can express his character in three words: He was a man who had the courage of his convictions. He was perfectly honest. I never heard of his integrity being called into question. He was a very generous man. He possessed beyond contradiction the qualities which are described by the word "manly".'

"Williamson, the mayor of Hazelhurst, a *Democrat*, testified: 'He was a man who was regarded as a very clever man, personally and socially. He was generous; a man who had a good many friends belonging to the different parties in the county. Outside of his politics Mr. Matthews was very well liked. Of course they didn't like his politics.'

"He was of small stature; he weighed only one hundred and thirty pounds and was quite lame.

DETERMINATION TO MURDER MATTHEWS.

"The Democratic minority of Covich County regarded Mr. Matthews as the leader of their opponents and the great obstacle to their taking possession of the offices in spite of the will of the majority. They determined to kill him unless he would abandon politics, and so strike terror into his supporters.

"As the election progressed this purpose became well known. A conversation between two active Democrats, to the effect that the leaders of the Republicans must be killed, has already been related. The night before the election, Woods, the Democratic candidate for coroner and ranger, said that Matthews would be killed. Hartley, one of the Democratic procession, said, after the death of Matthews, that he knew he was to be killed on that day for a week beforehand. At the polls at Tailholt, early on the morning of the election, in a crowd of Democrats, who were swearing and firing their pistols, one was heard to say:

"Oh, yes, by G—d, we will get some of them today. We would have got Print Matthews yesterday, G—d d—n him, if he hadn't crawled into his hole."

"The armed crowd who broke into Wallace Gilmore's house in Beat 3 told him they were going to kill Print Matthews tomorrow. William P. Ware, a highly respectable *Democratic* merchant, testified that he heard before the election that the crowd had passed a resolution to kill Matthews, and that the sheriff had been notified and said that it was out of his power to stop it. Ware warned Matthews, who told him the sheriff had promised him protection if he would stay in town. William Myers, the Democratic secretary of state, met young Matthews the day of the murder, as he was taking the train at Oxford. He asked Matthews what he was going home

for; and being told, said—'he knew it would be done, though he hadn't heard of it; he knew it would be done that day.'

THE ARMED BAND AT HAZELHURST.

"The armed band we have described came into Hazelhurst with their guns and cannon on Monday, the day before election. The statement that they had passed a resolution to kill Matthews before they entered the town rests upon hearsay only. But as they approached the town one of them was heard to say, as he rode along the line, 'If I can get ten men to go with me we will wind matters up.' The reply was, 'You can get as many backers as you want.' After they disbanded in the evening they were heard cursing one another for cowardice, and saying, 'We knew you would not do it after you promised.' Both these declarations probably related to the purpose to kill Matthews that day. When they were within a short distance of the town a colored man came to Matthews, who was in his house, and told him he had just overheard a plot between Meade, the chairman of the Democratic Committee, and several others, to deputize Matthews to quell the mob, and to have it arranged that he should be killed on his way to meet them. A few minutes after this notice, Sheriff Hargraves and Meade arrived at the house. Hargraves said: 'He had tried to get somebody to go out and make the arrests, and that he would deputize him to go out and arrest the mob; he was an old sheriff and a suitable person.'

MATTHEWS WARNED NOT TO VOTE.

"Matthews had received three letters, one signed '150,' threatening his life. He told Hargraves, pointing to Meade, that not half an hour before he had been informed that Meade *and others* had made a plot to assassinate him. If they were going to murder him they might just as well come there and murder him as to get him off there and assassinate him. Matthews had a daughter sick in his house. He had previously demanded protection from the sheriff and the city marshall. The city marshall had reported this request to Meade, who had said he believed there was no danger, and had called at Matthews' store to assure him he would aid in protecting his family. Matthew's brother said they would protect themselves. Meade told him he would 'play hell at that.' As the crowd came into town Meade went out and met them and guided them away from Matthews' house, telling them of the pledge he had made in their behalf. They went to the courthouse and were addressed, as they sat on their horses, by Mr. Barksdale, the Democratic member of Congress for that district. There is a conflict of evidence as to his speech, and we content ourselves with referring to his own testimony, which will be found exceedingly instructive. After the speech they passed directly by Matthews' house, saying as they passed, 'Somebody had better get away from here.' After passing the house they halted and passed the following resolution, which was handed by Meade to one McLemore and by him brought to Matthews' house:

"Whereas, it is thought the public interest will be subserved by Print Matthews absenting himself from the polls on election: Therefore,

"Be it resolved, that Print Matthews be ordered to keep within his own inclosure tomorrow.

"Adopted by the citizens of Covich County, this the 5th day of November, 1883."

"Matthews replied:

"This is a very strange proceeding in a Republican government. I think I have as much right to vote as any one of you. I have tried to be useful to society in every way that I could. Now, John, you have got it in your power to murder me, I admit. But I am going to vote tomorrow, unless you do kill me."

"This message was delivered to Matthews in his own house, in the presence of his wife and daughter.

MATTHEWS MURDERED.

"The hour of his doom approached. After breakfast, not far from nine in the morning, the election officers opened the polls just across the street from his house. By the custom of Mississippi no persons are permitted to remain in the room where the election is held but three inspectors, the clerk and the challenger representing each party. Into their presence the voters are admitted, who deposit their ballots and depart. A double-barreled shotgun had been secretly conveyed beforehand into the room and concealed in a wood-box. There were some Democrats with shotguns, friends of Wheeler, at the door. Wheeler had been constituted the Democratic challenger. Matthews was selected by the Republicans [Independents] present, when the polls opened, to act as their representative. He said he had to go home, that his daughter was sick, but that he would vote before he went. Wheeler himself afterwards said that he said to Matthews, 'Print, I would not vote today if I were you.' Matthews went to the table and handed his vote open, to the election officer. The officer handed it back to him and asked him to fold it. He took the ballot in both hands, when Wheeler, who stood at a distance of 18 feet, shot him with both barrels in the breast. Twenty-four buckshot lodged in him, one charge just below the throat and the other between the breasts. He fell instantly dead to the floor, an American citizen, on his native soil, within earshot of his home, in the act of casting his ballot. A man braver or kinder never consecrated battle-field with his blood.

"Wheeler's son-in-law and other young men with arms instantly pressed into the polling room, by the back door, through which the voters were to go out. The front door was at once locked.

"Matthews' daughter, Mary, a girl of nineteen, heard the sound of the gun as she sat on her father's porch. She says in her testimony: 'I did not know he had gone until I went through the house to look for him, and I went back and asked ma if he had gone; she

said she reckoned so. I looked all through the house, and could not see him anywhere, and then I went out on the front porch and sat down, and directly I heard a gun fire, and I knew what it was as soon as I heard it. I told ma I heard the gun, and I knew what they had done; and I went uptown where he was, and they had the front door locked. Mr. Coggsell, one of the inspectors, was on the outside, with the door locked. He told me I could not come in there, and I told him I was coming in anyway. He said that I had no business in there and could not come in: I told him I knew pa was in there, and that they had murdered him, and that I was going in. Mr. Groome came and caught hold of me, and carried me half way to the store, and I turned around and went back, and Mr. Coggsell told me I had better go back home and stay there. I told him that I didn't care what he thought, that I was going in there! that it was none of his business. The door was still locked, and my Uncle Leon came in a few minutes and they broke the door open then, and we went in and found my father dead.

RESOLUTIONS OF THE MASS MEETING.

"[On the next day a meeting was held in the courthouse at Hazelhurst, at which a resolution, in part as follows, was adopted, "Captain" Joe Bailey being the orator of the day, speaking in favor of its adoption]: *'Whereas*, certain rumors are current that the relatives of the late J. P. Matthews have threatened the peace of society, [the only breach of peace of society in evidence was that Mr. Matthews had been instrumental in the issuance of warrants for the arrest of "Captain" Joe Bailey and the other ring-leaders of his "society of bulldozers,"] in order to avenge his death by killing Democrats and destroying their property: Now, therefore,

"Be it resolved by the people of Copiah County in mass-meeting assembled this day, at the courthouse of said county, that if any person shall be injured, or an attempt made to injure him, either in person or in property, in any manner by the said relatives or friends of J. P. Matthews, that we hereby declare that we will hold his said relatives and friends who participate accountable for the same, and that *we will regard them as without the pale and protection of the law and common enemies of society, and that we will visit upon them certain, swift retribution.*

"Be it further resolved that so long as the friends and relatives of the said J. P. Matthews obey the law and become good citizens ["Captain" Joe Bailey citizens, alias, later, Standard Oil citizens] we hereby pledge them the protection of the law. * * *

"These resolutions were served on the family of Mr. Matthews as they returned from the funeral. They need no comment.

"At this meeting, Bailey, the lawyer, and captain of the company of which Wheeler was the major, made a speech [This speech was testified to, as will hereinafter appear, by an ex-Confederate soldier]:

"My friends, you have won a great victory. Democrats we

were and Democrats we are. We have got a Democratic stock of officers. By the next election we hope to have a Democratic Congress. [Do you suppose "Captain" Joe was thinking about standing for Congress at this early date?]

"Some one called out, 'Tell us about Beat 3.' He went on:

"Now, I will tell you something about Beat 3. I went down in Beat 3, *me and my friend Wheeler*; I had thought to stump the beat but after I got down there in a portion of that country, we came to the conclusion that I could do more good *in the saddle* than I could on the stump. Therefore, we went round to electioneer, and I tell you that when we started out we took along with us something like this (pulling out a pistol). *I tell you, my friends, it is the best method of electioneering I have ever seen.* My friend Wheeler would get right down and go right in and take a seat right by the fire with those persons. He would electioneer a few minutes, and they most invariably agreed to vote the ticket before we left. Oh, we didn't hurt anybody. [Then all the other witnesses lied, and "Captain" Joe's word is below par in Texas now. He has deceived the people too long and too often for them to retain that confidence that was once so freely and so fully his. Of course "Captain" Joe said that they didn't hurt anybody" because he himself was likely to be arraigned for the felonies charged in the affidavits upon which a warrant had been issued for his arrest.]

"It would be well for some persons to go round and see those people who affiliate with the opposite party and are voting different with us, and encourage them to come together and vote with us. *If they agree to come back and vote with us, grant them all courtesies, and be peaceable with them, but in the event that that should fail, then what shall we do?*" [Loud cries, "kill them out, kill them out!" cheering, and after the cheering subsided, a loud voice, "kill them out!"] "*No; I would not advise you to kill them out; but I believe you will do it without advice.*"

[Comment: Is it any wonder that the Standard Oil bully from Texas should have many times since this Mississippi training have exhibited a cruel, vindictive, brutish and lawless spirit, such, for example, as when he said to the Suppression Committee of 1907 that he deserved great credit for not having murdered his enemies outright, and that he "would do so yet if he could get them all in a bunch."]

SHOOTING OF A. W. BURNETT.

"On the 6th of September, just two months before the election, Burnett, the chairman of the Independent Executive Committee, learned that *an ignorant Democratic negro had been recommended to the Governor as Republican inspector by the Democratic committee.* He waited on Governor Lowry and remonstrated against the transaction. He was waylaid on his return and shot by Charles Hart, an active Democrat, afterwards conspicuous in the armed mob.

Burnett was active in politics. An attempt was made to impeach his character. But it was abundantly shown, even from the most hostile sources, that his character stood high, except as affected by political prejudice. He was the only lawyer at Hazelhurst who was not a Democrat and had a large and growing practice. He had made some political speeches and on one occasion met Governor Lowry in debate and divided with him the time. Hart was in company with eight Democrats, *among them Bailey*, who made the principal speech at the meeting of November 7th, and who acted under Wheeler as captain of the Democratic company. As Burnett passed them, near the corner of the hotel, in the street, Hart said, 'I understand you say you didn't *make sport of Bailey* the other night.' Burnett replied that he had not and could prove that he had not mentioned Bailey's name. Hart replied, 'You are a God damned liar,' and began to draw his pistol. The weapon caught in his pocket, when Burnett drew a knife and struck at Hart, cutting his clothes in the shoulder, but not wounding him. Burnett then ran and had got about twenty feet and was entering the hotel when Hart shot him through the groin. The men who were with Hart separated in different directions, as if to surround and head him off in which ever direction he might attempt to escape. He lay several weeks in great danger of his life, but recovered.

"Subpoenas in blank were put at the service of the minority of the committee and by them entrusted to Messrs. Dodds and Sexton, who were employed by a meeting of prominent gentlemen in Copiah County to present their case before the Committee. They summoned a considerable number of persons who were among the mob under Wheeler, but dismissed them all *without examination*. [Bailey among them.]

ATTEMPTS TO PALLIATE THE OUTRAGES.

"There has been some attempt to find a feeble palliation for the murder of Matthews by representing that he was a violent man, a desperado, and that his death was not due to political causes. This at least, is to be said to the credit of the murderer, that he himself disdained this contemptible pretext. Wheeler declared that—

"'It fell to his lot to kill him. * * * that he had nothing against Matthews, but that he had pledged himself to Beat 3 to kill him, and that he had done it and was not ashamed of it.'

"On the 13th or 14th of February, 1884, Wheeler said in a street car in Jackson—

"'I killed Print Matthews. I told him not to vote and he voted, and I killed him. It was not me that killed him; it was the party. If I had not been a Democrat I would not have killed him. It was not me, but the Democratic party; and now if the party is a mind to throw me off, damn such a party.'

"A young man, who inquired if Wheeler had any hard feeling against Matthews, being answered 'no,' then said he thought it a cold

blooded murder, and had three pistols presented at his head [Wonder if "Captain" Joe was among these suppressors?] and was compelled to retract his statement.

CHARGES AGAINST MATTHEWS.

"There are few earnest and influential political leaders against whom charges are not made by their opponents quite as serious as any that were urged against Print Matthews. It was not denied that he was an able and successful business man, of blameless private life, never charged with an offense against the law, public spirited, kind-hearted, generous, brave. He and his wife apart from politics, would have been welcome in the best society anywhere. No evidence was produced in support of this charge, [negro domination] and its preposterous character was frankly conceded by some of the Democratic witnesses. There was a rumor that he had made a violent or incendiary speech. No man was found who had heard such a speech or who could report any improper sentiment which he had ever uttered in public. A report of one of his speeches was laid before us which will compare favorably in moderation of tone with the political speeches of many men who stand high in public esteem in both parties. It was charged that he sought to make a race issue, to organize the negroes against the whites. But no evidence whatever appears to support this charge. We do not remember any evidence that he ever addressed the colored people as such. He appealed, as was his right, to the people of Copiah to support the party to which he belonged, by arguments addressed to their common interests without regard to race.

"Matthews was slain solely because he was an eminent and influential Republican. That his death might strike terror into the hearts of the opponents of the Democratic party and enable them, the party being in the minority of legal votes, to take possession of Copiah County. *He was not murdered for any intemperance of speech; he was not murdered for any personal quality of character; he was not murdered because he advised the negroes to vote.* * * * *No National election was pending.* * * * They say in defense of these practices that they are necessary to preserve their civilization. We did not see the necessity. The sooner the civilization perishes which is founded on cheating and murder the better. Better that the waters of the great river should again cover the land which in ages it has formed, than that it should be occupied by a State which breeds her youth to fraud and assassination.

VIEWS OF THE MINORITY.

The views of the minority of the Investigating Committee, to-wit, the Democratic members thereof, differ from those of the majority heretofore set out, in the main only as to the political aspects of the situation. The author believes, after a very careful reading of every word that was uttered before the Committee by 130 witnesses, that

J. P. Matthews (Print Matthews) was murdered by Wheeler as per an agreement by "vote or lot" cast by the ring leaders of the mob, including "Captain" Joe Bailey, not because he was a Republican, but that *his assassination was precipitated by the fact of his being an influential and substantial citizen, and consequently to be reckoned with in the probable resulting prosecution of the ring-leaders for the crimes they had committed in the country.* A careful perusal of the testimony hereinafter set out will itself support this conclusion.

But referring to the views the Democratic minority of the Committee, it will be seen from the following excerpts from their report (Senate Report, pages XLIII to LXIX) *that they did not undertake to shield this mob or its members in any sense, but rather take the position that the lawlessness and outrages should not be charged up to the better elements of the Democratic party in Covich County, but to the lawless characters composing the mob, of which "Captain" Joe seemed to be the brains.*

Here are some excerpts from the report of the minority:

"There was an election to be held in Covich County for the members of the Legislature and certain local offices. No member of Congress was to be voted for nor was a Senator to be elected by the Legislature. The election was purely local and could have in its results no possible bearing upon questions with which any department of general government had the least concern. * * * There was no Republican ticket nominated but the party opposed to the Democracy assumed the name of Independents, and its candidates, with one or two exceptions, were persons who had never claimed to be Republicans. * * * *From whatever cause or causes any of the alleged acts of violence may have occurred or by whom committed, they meet the unqualified disapproval of the undersigned, as we are sure they do of all good citizens of Covich County.* [How do you suppose this will sound to "Captain" Joe from Democratic Senators after a lapse of 23 years?]

"The undersigned have no word of excuse or palliation for the crime of Erastus Wheeler, nor any sympathy with the criminal act with which he is charged. On the contrary, so far as they are informed of the character of the offense, *they hold both him and his act in utter abhorrence and detestation.* [What harsh language this to have been uttered by Democratic U. S. Senators concerning "Captain" Joe's "noble friend!" Almost as harsh words these as some that have since been uttered concerning his other indicted friend, "My dear Pierce."]

"Erastus Wheeler and J. P. Matthews were both citizens of Hazelhurst, and, according to Wheeler's statement to Doctor Pitts, were on friendly terms. On the Saturday night preceding the election, affidavits were made by one of the brothers of Matthews and another man at the instance, as was reported and believed, of J. P. Matthews, who was present, for the arrest of certain persons, including Wheeler [and "Captain" Joe] and warrants of arrest were issued

thereon. Wheeler and Matthews met on the morning of the election in the room where the election was to be held and had some conversation in an undertone, not heard by the officers of election present in the room. No other persons were in the room [except the officers of election], the doors of which were closed. Matthews and Wheeler separated and the former had just deposited his ballot when Wheeler, who was some distance from him, fired a gun which had not been seen by the officers of election, and Matthews fell mortally wounded. *

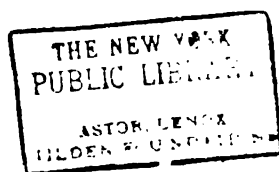
*"His [Matthews] character, whether good or bad, would neither increase nor diminish the heinousness of the offense if he was murdered. * * * There was, so far as the undersigned are informed, no justification or excuse for the killing of Mr. Matthews by Wheeler.*

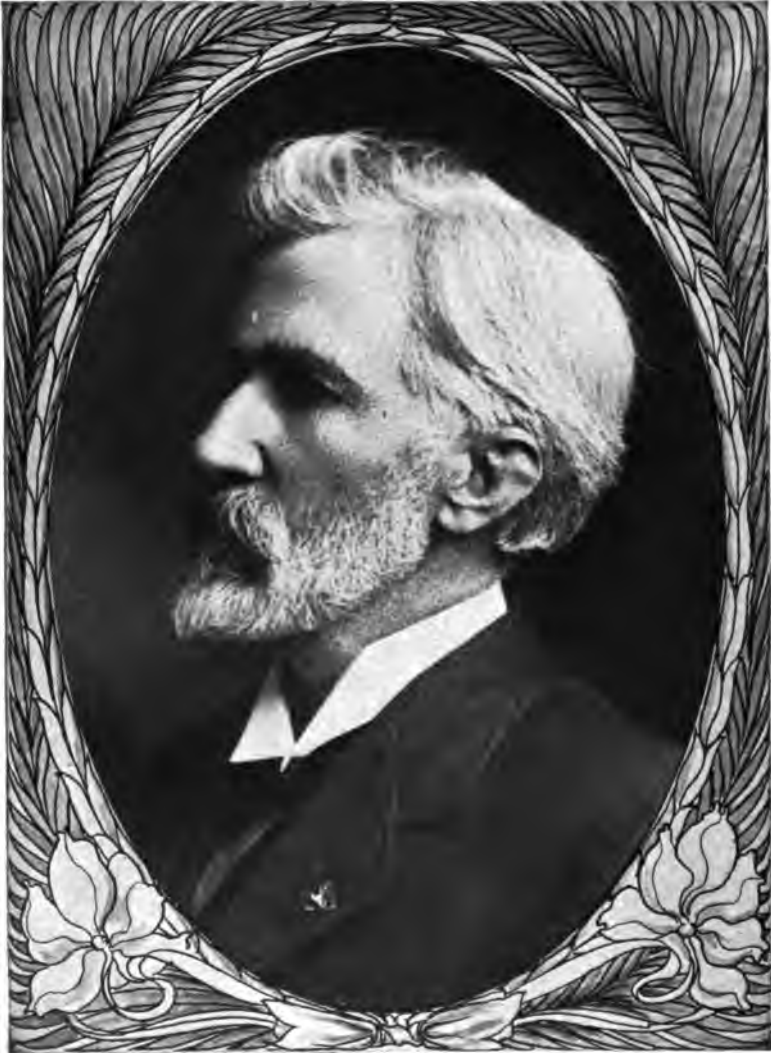
[Admitting then for argument's sake, from the standpoint of an extreme Southern view, that "Captain" Bailey or his bulldozers were justified (which the author does not admit, though he be intensely Southern) in the murder and other crimes committed in the country, it is seen from the foregoing that the Democratic members of the Investigating Committee saw absolutely "*no justification or excuse for the killing of Mr. Matthews.*"]

THE RESOLUTIONS OF THE MEETING AT HAZELHURST.

"On the day after the killing of Matthews rumors were rife in the town of Hazelhurst [set afloat perhaps by "Captain" Joe and his "noble friend"] that the friends and relatives of the deceased were about to put into execution his oft repeated threats [?] that his death would be avenged. * * * A meeting was held and passed resolutions, which met, *as they deserved*, the unqualified condemnation of the people of Coptah County. No one of unprejudiced mind who listened to the witnesses on this point can, for a moment, believe that these resolutions expressed the general sentiments of the people there [and yet "Captain" Joe made a vehement speech in support of those resolutions, and his Democracy, his discretion, or his standing ought not to have been called in question even by Democratic United States Senators]. Reprehensible and indefensible as these resolutions are, they do not justify the inferences which the majority of the committee seek to draw from them, nor the accusation against the people of an entire county. * * *

[Thus it is seen that the Democratic minority of the committee sought only to protect the good name of the conservative and law-abiding Democrats of Coptah County, which had been brought in question and subjected to reproach by "Captain" Joe and his "society of Bulldozers."]





HON. JNO. M. DUNCAN,
NOW OF HOUSTON, TEXAS.

MISSISSIPPI PRESS COMMENT.

WHY MATTHEWS WAS KILLED.

Every bullet that was shot into Matthews will be worth thousands of votes to the Republicans, because it will be said, and cannot be denied, he was killed on account of his politics *by intolerant Democrats*.—*Vicksburg Post (Independent Democrat)*.

Of course our people do not want and will not submit to a rule of ignorance and corruption, but this can be averted without committing such a terrible murder as was that of Matthews, and without passing such foolish and intolerant resolutions as those of the Hazelhurst mass-meeting.—*Vicksburg Post (Independent Democrat)*.

AN INDEPENDENT VIEW.

We have repeatedly defied those who are disposed to condemn the Post for its utterances in regard to the Matthews killing to name a single word or sentence of ours that would or could be used by the Republicans of the North. We renew the defiance. * * * *The killing of Matthews has been shown beyond the possibility of doubt by the most skeptical to be a cold-blooded, predetermined, heinous assassination, instigated by the [lawless] Democrats of Copiah County, and, since the perpetration of the cowardly, inhuman act, condoned and defended by them to an extent next in shame and disgrace to the shocking deed itself. Matthews, unwarned of his life, was shot down like a dog because he had exercised the fundamental right of free government of casting a free ballot; shot by the calmly-appointed tool of an intolerant and blood-thirsty mob.* * * * Then, such things being true, who, knowing any distinction whatever between honor and dishonor, and cowardice and courage, brutality and humanity, will refuse to denounce and condemn them? We are not of those who muzzle their conscience that the iniquities and villainy of any man or party may go unbranded and unpunished. * * * The killing of Matthews was a bloody, brutal murder, and the arrogant defense of the ugly crime by *pretended* Democrats cannot free it from the fatal stain. By what code of moral or political ethics are men who defend such crimes governed?—*Vicksburg Post (Independent Democrat)*.

The foregoing facts and Mr. Bailey's active participation in the crimes set forth will be supported in the three succeeding chapters by a reproduction in narrative form of the sworn testimony of forty out of a hundred and thirty witnesses examined. The evidence will be taken from the U. S. Senate Report and will portray in graphic outline Mr. Bailey's real character in all its characteristic details.

CHAPTER IV.

WHY BAILEY LEFT MISSISSIPPI (Continued).

TESTIMONY.

Appended to the reports of the Committee was a complete stenographic transcript of the proceedings from day to day, including 699 pages of testimony which the author has carefully read, and from which the testimony of the following witnesses has been taken. The evidence is given verbatim except that it has been condensed, the questions and answers having been combined for the sake of brevity. A number of negroes were examined, but the author has refrained from reproducing the testimony of any other than whites. The witnesses were nearly all democrats. Mr. Bailey's name, by actual count, appears one hundred times throughout the pages of the report.

Making every allowance for the impulsiveness of youth and considered from an extreme southern standpoint, a young man might be drawn into merely joining a mob of the kind of *which Mr. Bailey was the head*; yet these considerations offer no excuse for one of Bailey's ability and training in actively and aggressively organizing a mob for such lawlessness.

In considering Mr. Bailey's conduct and connection with these outrages, it should be constantly borne in mind that *Mississippi had been safely Democratic since 1875, more than eight years before the lawlessness described in the instigation and perpetration of which, Captain Bailey and Major Wheeler participated.*

MISS MARY MATTHEWS

testified in substance, pages 61 to 63, as follows:

I am 19 years old; live with my mother at Oxford; was at home in Hazlehurst about election time. I saw *the mob* come in town Monday morning. As they were going in, Mr. Meade and Mr. Hargrave went out and met them and came in with them. They rode in town and said they were not going on that side of the road; but they came on that side and went all through the town and then came back right by our house. In the evening they came to the foot of

the bridge and stopped there and we thought they were all coming to the house, but our physician went to them and told them that my sister was very sick and asked them not to do it. They stopped there a while and then sent the resolutions by Mr. John McLemore, with reference to not allowing my father to vote. He told him that he was going to vote unless they murdered him; that he had as much right to as any of them and he was going to exercise his right. They went around town on Tuesday. *They had their guns all the time. They fired a cannon.*

I did not know when my father left to vote until I went through the house to look for him and I went back and asked ma if he had gone; she said she reckoned so. I looked all through the house and could not see him anywhere and then I went out on the front porch and sat down and directly I heard a gun fire and I knew what it was as soon as I heard it. I went up town where he was and they had the front door locked. Mr. Coxwell, one of the inspectors, was outside with the door locked. He told me I could not go in there; I told him I was going in anyway; I did not care what he thought, that I was going in there; that it was none of his business. The door was still locked, and my uncle Leon came in a few minutes and they broke the door open then *and we went in and found my father dead.*

I knew Mr. Wheeler; he and my father were on good terms. He traded at my father's store.

My father was the most peaceable man I think I ever saw. He was always after people about saying things; always telling them that they talked too much and could not do them any good to say it and they might as well just keep it to themselves; that it was no use to go around saying anything, even if it was true. *Just as we children got back from the burial, they brought the resolutions.* [With reference to the Matthews family being beyond "the pale and protection of the law, common enemies of society;" the same resolution that "Captain" Joe had spoken to.]

MISS JESSIE MATTHEWS

was sworn and testified in substance, pages 63 to 65, as follows:

I am another daughter of Mr. Print Matthews; am 16 years old; living with my mother at Oxford. I do not believe we will ever go back to Hazlehurst. I was there at the time of the election sick, confined to my bed. I am the sick daughter who has been talked about in this investigation. I saw the crowd on Monday; I heard them when they went out on Monday evening, and again after my father was killed.

I know Mr. Burnet who stopped at our house for some length of time. The evening he was to go back (Tuesday evening) I heard about the crowd threatening Mr. Burnet and going to the train and just hallooming. My brother sent a letter on the evening train to Mr. Burnet and my sister sent a dispatch later in the evening, advising him not to come back [Burnet was charged two months before,

though he denied it, with the unpardonable sin of having "made sport of Mr. Bailey," for which crime he suffered from a gun-shot wound for five weeks. "Captain" Joe has always been a distinguished character, not only above reproach, but above approach.]

I never knew of my father having any difficulty with his neighbors, either Democrats or Republicans. He was not quarrelsome, but very quiet. He had one of the best dispositions I ever knew. He was a lame man.

JAMES M. MATTHEWS

was sworn and testified in substance, pages 113 to 122, as follows:

I live about 15 miles southwest of Hazlehurst in Copiah County. Am a farmer and a brother of Print Matthews. About eleven o'clock on Tuesday they came to let me know that my brother was killed, and I went home and got my family and started for Hazlehurst. I was notified four or five miles from town that *if I met the mob they would kill me*; that evening I saw 25 or 35 men pass on with arms. I think most of them had shotguns. I saw men all over town with guns patrolling up and down. That night some 12 or 15 armed men came right to the railroad—my brother's house I suppose is 30 steps from the railroad—and got right opposite my brother's; we were sitting up there; the commanders [think of "Captain" Joe approaching this house with the corpse there] commanded them to halt; they stopped there and of all the language you ever heard, they used it [and yet "Captain" Joe said something last fall about looking "my Redeemer in the face"]. My brother was charitable, kept an open house, had many visitors, more than any other man in the county. He gave \$100.00 I think just before he was killed to a Catholic church there that had been started; I heard them say so; they had but a few members there.

My father had his gin burned up [after the election] on the place about four miles from where he lives. He has two places. His tenants have been run off. The burning of my father's gin grew out of those resolutions [to which "Captain" Joe spoke so eloquently the day that the family were burying their dead, displayed his six-shooter and declared it the best method of electioneering he had ever found yet]; that was the trouble.

REV. W. G. MILLSAPS

was sworn and testified in substance, pages 219 to 223, as follows:

Have been living at Hazlehurst for the last two years. Have been 28 years in the Mississippi Conference, sometimes in one portion of the State and then in another, but always in the State of Mississippi. *Am a methodist clergyman.*

On Monday I heard a great noise. A whooping and cheering about three-fourths of a mile west of Hazlehurst. ["Captain" Joe must have been making them a speech about "burying my enemies"]. *I was in the parsonage.* I went upstairs and listened and I suppose

they remained there about an hour and thought perhaps it might be speaking down there. After an hour had transpired, I saw, I suppose, 150 men going up the street and they were all armed with guns and pistols, mounted on horses. They came up from the west and went around the square brandishing their pistols, riding up and down and I suppose in ten or fifteen minutes they went around the square and came back again and went on opposite the courthouse, and such was the excitement I felt alarmed.

On Monday evening I heard some one speaking from the courthouse where they stopped for sometime. I suppose they dispersed about an hour by the sun. That is what I saw of *the mob*. I heard Mr. Matthews' name called; they seemed to be excited [no doubt the leaders were excited, lest they should be prosecuted for the crimes upon which warrants had been issued for their arrest and they doubtless feared Mr. Matthews' influence with the grand jury concerning which other witnesses testified]. *I had heard of their being around in the country firing, beating and murdering before this, I suppose about ten days.* I heard of the killing of a colored man by the name of Wallis, and several of the old servants I used to own came to me and complained and said they were driven off from their homes and houses and one man said that he had been shot in the shoulder. I heard all these rumors constantly from that time on.

I heard there was to be speaking at the court house that night by Major Barksdale, whom I regarded as a man of integrity and proper feeling. I went to hear him and felt disappointed that he had not taken the opportunity to allay the feelings that had been evident. Not a word did he say to allay the excitement and prevent the troubles threatened *by further acts of violence from this armed mob*. That was my decided impression. I had voted for him before, not thinking that he was a radical man in his views, but after hearing that speaking, I could not vote again for him to represent this district in Congress.

I have known Print Matthews ever since he was a boy; knew him well; went to school with him, and then he went to school to me. His father and my father lived within two miles of each other. *He was a very pleasant, peaceable, quiet, good man.* I can say sincerely that he was as good a man as was in Hazlehurst, leaving out all idea of religion. He was generous and social in his disposition, even when a boy. His house was an open house for company. It was his habit to assist the several churches of the city; he gave \$100.00 to the Catholic church. I never knew him throughout his life to be quarrelsome or troublesome in any way. I think he was rather peaceful. He was a brave man, but I do not think aggressive at all. I heard him make his first speech of the campaign at the court house. *There was nothing at all in the speech of an incendiary nature. Nothing to arouse the negroes. I have been a slave-holder. Owned about 60.* I know the negro character well; have lived with them all my life. I know a great many of the colored people in Copiah

County. *I do not believe a Democrat in Covich County believes that there is any danger of a negro insurrection.* [This was just one of "Captain" Joe's fabrications to cover up his conduct, as he afterwards tried to cover up his political crimes in Texas.]

I was in Hazlehurst the day Mr. Matthews was killed. There came a young man up from the depot and told me he was shot. I went and my wife started to follow me, and I told her to wait until I went down there. When I got to the hotel somebody remarked, "He never kicked." I went on and found him lying with his boots and clothes on, and a stream of blood on his face, before he was cold. I heard remarks that there was a dead line drawn at the bridge, there, and I told them that I was of not much account; that I was going down there; that he was a friend of mine; and they said, of course as a minister, they had no objection [think, gentle reader, of the reverence of our "Captain" Joe], *but they said that there was a dead line down there at the bridge.* I saw Mr. Wheeler, the man who killed him, sitting at Mr. Subat's grocery. He had closed. *Mr. Meade was with him. They were both sitting there, each with a double barrel gun in their laps.* That was about 20 minutes after Mr. Matthews was killed. *The mob gathered in there that day after Mr. Matthews was killed; there came a company from Crystal Springs [where "Captain" Joe had early donned the role of a bar-room bully]; I heard the cannon firing—I did not know for what purpose; some of the mob came from Beauregard and some from Wesson, until the whole town seemed to be a military camp [such was the prowess and military leadership of our gifted "Captain" Joe]. I never saw an Independent with a musket, either then or before the election.* I had no interest in the election. Mr. Matthews never said a word to me and I had no concern to vote. *I did vote the Democratic ticket about five o'clock that evening.* They were both called Democratic tickets, and I never paid much attention to the matter. I voted what they called the Democratic ticket. I did not understand that it was Bourbon. I will say this, that my mind was made up before that; but I did not feel like voting after I saw Mr. Matthews was killed; but having made up my mind before that, I voted. Neither Mr. Matthews nor his wife belonged to my church, though his father and mother and sisters did.

REV. ALEXANDER A. LOMAX

was sworn and testified in substance, pages 227 to 233, as follows:

I am a minister of the gospel of the Baptist persuasion. Have lived in Hazlehurst ten years. Am a Democrat. I think I would be safe in saying that the Democrats and Independents all over our county are opposed to violence and in favor of law and order, *but a small percentage of the Democrats of Covich County was out in that mob; it is about the percentage of 100 to 2,500 of the total Democratic voters.* My idea is that *the orderly Democrats were unprepared for this mob, and did not expect it, and consequently*

could not organize and meet it, or else that they winked at it. It must have been one of the two.

E. C. WILLIAMSON

was sworn and testified in substance, pages 131 to 145:

Have resided at Hazlehurst, Mississippi, about 15 years. Born in Mississippi. *In politics I am a Democrat.* Was mayor of Hazlehurst last year and as such was ex-officio justice of the peace.

I saw a little of the *armed men* who came into town on Monday before the election on Tuesday, November 6, 1883, mounted and armed with guns and pistols. Complaint was made to me officially by Dr. H. H. Barlow and T. E. Matthews, who made the affidavit charging certain parties with riding through Beat 3 disturbing people and their families—I believe the affidavit charged them with shooting and going to their houses at night. The parties who made the affidavit desired me to preserve the peace and have them arrested. The complaint was against about 25 men, I think, and for whom I issued warrants of arrest and placed in the hands of the sheriff, T. J. Hargrave. I do not know officially whether he arrested them or not. The warrant was never returned to me, and I did not try them. It was not prudent to undertake to try any of the men who were in that crowd for being in it [“Captain” Joe seems to have succeeded in bulldozing Mississippi officers as he has later some people in Texas, especially those suppressors of truth sometimes called “investigators” at Austin last winter]. There was somewhere between 100 and 150 *armed men* around through town on the day prior to the election.

I had heard at different times that there was a crowd of *armed men* around in that section of the country in Beat 3 firing guns and visiting different houses. Oh, yes, sir; I had heard of their beating and killing for some days before the election.

Our citizens in town were very much in favor that peace and quiet should be restored. These people were in from the country [except “Captain” Joe and his noble friend, Major Wheeler, who lived in Hazlehurst], not town people. There might have been a *few connected with the company from the town and I think there was*, but our town people as a general thing were opposed to violence or disturbance. The better class of Democrats in Hazlehurst did not countenance the affair [and yet “Captain” Joe has always claimed to be the highest “class” Democrat]. I issued a proclamation calling upon the officers and citizens of the town to assist in seeing that law and order was restored again and guaranteeing to the citizens peace and quiet. That was on the 8th of November, and from that time on things became very quiet.

Mr. Matthews was regarded as a very clever man, personally and socially. He was generous and a man who had a good many friends belonging to the different parties in the county. [Is it possible “Captain” Joe Bailey was jealous of Matthews’ popularity?] Digitized by Google

[On Cross-examination.]

It is a felony going to a residence and firing into the house and setting fire to houses where people live. I will state that after the election the sheriff and I had a conversation with others and in that conversation I thought at their suggestion that it was not advisable to have those parties arraigned and tried, and I agreed that he should not arrest the parties and bring them before me for two reasons. The crime was charged to have been committed in Beat 3 of the county in which I had no jurisdiction. [This is like "Captain" Joe getting out of borrowing money from the Waters-Pierce Oil Company by borrowing it from Pierce, its president.] Next, that the excitement had prevailed so that I thought best not to try them, and my consenting, I reckon, is the reason why the warrant was not returned into court. [And thus did "Captain" Joe Bailey, the boastful bulldozer, escape trial for a number of felonies, and yet (according to his own words) his late associate trust masters "ought to be put in stripes."]

J. P. Matthews was present at the time that Dr. Barlow and T. E. Matthews swore to *the affidavits* that had been written at my desk by Mr. Burnet. Captain Hargrave told me of offering to deputize Print Matthews to arrest *that mob*. I would say that I think Captain Hargrave did not mean to have him appointed solely to be murdered. Ras. Wheeler was put under a \$5,000 bond to appear before the next term of Criminal Court, which meets in April. *Murder is not aailable offense in Mississippi.*

RICHARD COXWELL

was sworn and testified in part, pages 162 to 168, as follows:

Live two and a half miles east of Hazlehurst. Was one of the Democratic inspectors for the precinct where Mr. Matthews was killed. I do not think a large majority of the Democratic party of Copiah County countenance or endorse acts of violence or lawlessness. There may be a few of that number in that county. [Such as "Captain" Joe.] I think they are opposed to such as a general sentiment.

DR. A. B. PITTS

was sworn and testified in substance, pages 168 to 170, as follows:

Live in Hazlehurst. I know Ras. Wheeler; I had a conversation with him touching the killing of Mr. Matthews at the Hazlehurst hotel. I went to the depot to get the paper from New Orleans—the Times-Democrat—I believe I got both papers, one for myself and one for Mr. Wheeler. We were reading the account of the killing, and I made the observation relative to the statement of the Times-Democrat that Wheeler and Matthews were enemies—when I read that part of the narrative I stopped and asked him. I said,

"Ras., that is not so, is it?" and he said, "No; we have always been on very friendly terms." We began to read again. He remarked, "No." He said, "We have always been on very friendly terms," and I believe he said that Mr. Burnet knew that they had always been very friendly. He described the different positions that they occupied at the place where he was standing when he shot him. Yes, I might say that he said that he killed him. Before leaving, he told me that he and Matthews had had a conversation just as Matthews came into the place, and I asked him about that, having heard it before. It occurs to me that he told me that he requested Mr. Matthews not to vote. I do not say there was any altercation between he and Matthews at all.

I was the surgeon who attended Mr. Burnet [the day Charley Hart shot him for denying that he had made sport of "Captain" Joe]. Burnet came into my office to settle the bill after he was well and out, and I told him of the conversation that took place between me and Wheeler. I do not remember asking Ras. [Wheeler] his reasons for killing him, why he did do it, but I remember that part of that conversation wherein he told me that after the crowd passed the resolution instructing him [Matthews] not to vote and he sent back word he would vote, that he, Wheeler, *was delegated either by lot or vote to kill him if he did vote. He said to me in so many words that it was by lot that it fell upon him to do it.* [Suppose it had fallen to the lot of "Captain" Joe? Would Texas have been cursed with the scandal and disgrace that this has brought upon us?]

Mr. Matthews came to me one morning in the hotel, I think on Monday previous to the election, and called me into the hotel parlor and told me that he had some fears about his safety; that he had been informed that parties were coming into town and that *it was their purpose to murder him and his family.* I tried to assure him that it was a false conception on his part. I told him that I had heard nothing of the sort and that I did not think it could be true. But he was very uneasy and requested me to go and see the sheriff. I did go in company with Mr. Day, at that time a citizen of Hazlehurst.

JOSEPH B. JONES

sworn and examined, testified in substance, pages 122 to 131:

I reside in Copiah County, state of Mississippi, and have so resided since my infancy, except three years temporarily out of the state, about 25 years old. In 1883 I was a member of the Board of Supervisors, and president of that board. Their duties are the same as County Commissioners in other states. I knew J. P. Matthews from infancy up, except about three years I lived in Louisiana I lost sight of him. He was but a youth then and went to school to me when he was about ten years old. *As a citizen, there were none better. He was a peaceable, law-abiding citizen. He was a man who*

would resent an insult, although physically he was a weakly man and a cripple, but he was high strung, proud and ambitious. He was generous to a fault, and charitable, contributing to all the churches and schools; among the most liberal men in the county. He was a man of considerable means; a man that could always command means and for the last 15 or 20 years was a man of means. I heard Mr. Matthews make a great many speeches before the war and a great many since. I never heard him proclaim any doctrine that was wrong or advise the colored people or anybody else to do anything wrong.

Yes, sir; it is customary for the defeated party to charge that the other party cheated them, but it is not customary to inaugurate such a steal [and yet "Captain" Joe said that he "never stole any ballots nor allowed anybody else to steal them"] for carrying elections as they inaugurated here in this last election; that is a new departure.

It has never been customary in our county to make demonstrations of that kind—firing off guns, that I know of, except in Hazlehurst. When an election was over, I heard cannons fired there. The successful party would have a little jollification, but not go around to people's houses.

I wish to state now, gentlemen, and I want it distinctly understood that *I am not a Republican*; I never was a Republican and I feel very reluctant to say that I ever was a Democrat, and I do not think I ever shall be again. I cannot be a Mississippi Democrat. ["Captain" Joe Bailey Democrat. How many "Captain" Joe Bailey Texas Democrats will there be when this controversy is ended?] I was an oldtime Whig until after the war and after the war I fell in with the Democratic party. I stuck to them until along about 1875, when I fell out with them and since that time I have been an Independent Democrat. *I want it distinctly understood that I am not a Republican. In Mississippi a man does not dare to scratch his ticket; he must vote the Simon Pure Democratic ticket or he is denounced* [by "Captain" Joe Bailey to this good day]. In the election in 1875—known as the shotgun election, in Yazoo County, Mississippi—there was not much shotgun in it in our county [Copiah]. I do not think there was anything like hostility in our county [that was the election when the carpet-baggers were overthrown throughout the state, and yet they hadn't anything like hostility in Copiah County that year. Why should it have remained for "Captain" Joe Bailey and his associates, eight years later, to wake up to this necessity?]

The Democrats last fall were trying to get up some rumors that the negroes had entered into a great conspiracy to rise up and murder the whites, *but it was all gotten up by the Democratic party; there was no ground for any such rumors*. They would have it that Matthews was trying to array the negroes against the whites and all that sort of thing. *I know it was not true*. I heard him tell the

negroes too often from the stump and from private conversation that if it ever came to a collision of races, *they would find him with the whites*. I have heard him tell it to them in his speeches and have heard him tell it to them in conversation.

ROWAN B. RILAS

was sworn and testified in substance, pages 340 to 344, as follows:

I do not belong to the Democratic club at Hazlehurst. I always voted the Democratic ticket, except as to Mr. Matthews, and that barred me. I do not think he ever had a dollar too good for anybody if they wanted it. He was full of generosity, an intelligent, active business man.

J. H. HURD

was sworn and examined, testifying in substance, as follows, pages 349 to 354:

Now I live in New Orleans; formerly in Copiah County. I was in Mr. Hogg's grocery store Tuesday night, and said I cannot find out what Matthews was killed for. I asked him if he knew what Wheeler killed him for, and he said that there were no hard feelings between Matthews and Wheeler. I think he said two weeks before the election Wheeler and his brother were staying on his [Hogg's] place and he [Wheeler] said that Jack Wheeler and Ras. Wheeler had gone to Hargrave to borrow some money and he had refused and that he had gone to Matthews and got the money; and he went on to say that he had pledged himself to Beat 3 to kill Matthews. Mr. Hogg told me, himself, before the crowd that was in there, that Wheeler said he had nothing against Matthews, but that he had pledged himself to Beat 3 to kill him, and that he had done it and was not ashamed of it. I think Hogg is a Democrat. I told him if that was the case, it was cold blooded murder, if there were no hard feelings between them and he had pledged himself to Beat 3. After I had stayed in there a few minutes, I started towards the depot and got about half way and a part of this crowd, six or eight, met me about half way from the depot to Hogg's grocery and three of them presented their pistols at me and said I had to take back what I had said. *I told them I would, under the circumstances.* All I had said was that it was a cold-blooded murder. This crowd also told me I would have to leave. After I had talked with two or three parties [friends] they told me I had better leave, and that "if you think it is a cold-blooded murder, you keep your mouth shut the way times is now." I says, "If a man cannot express his opinion, it is a poor country. I am going to leave here in a week or so anyway, and then I can say what I please."

FRANK M. SESSIONS

was sworn and testified in substance, pages 364 to 368, as follows:

I heard the long resolutions with reference to the Matthews family read. I was present when they were adopted. Yes, sir; there

was a speech made there that day [this was by "Captain" Joe] when the resolutions were read Major Barry got up and there was a heap of shouts, so that you could scarcely hear him at times. He proposed that they strike out the clause of the resolution that held the Matthews family and relatives responsible for any violence that might occur to individuals or other parties. I could hear many persons say, "No, no, no," and Major Barry seemed to sit down. At any rate, he hushed, and awhile after there was quietness. Major Barry got up a second time and commenced to talk about it and they drowned him out again with "No." They then put the resolutions to the house *and a good, large voice* [perhaps "Captain" Joe's voice] said "Yes." Joe Bailey is the person who spoke. Bailey's speech was long and tedious. He said, "My friends, you have won a great victory." He says, "Democrats we were, and Democrats we are." He says, "We have got a Democratic stock of officers," and he says, "By the next election we hope to have a Democratic Congress." And something about that way he spoke along something in moderation. And some persons by this time hallowed out to the left of the house from where I was—I was back in the rear, they were in front of me—"Tell us what they done in Beat 3." I do not think that Bailey said anything in regard to Beat 3 prior to that time. And they shouted then, several hallowed, and after that abated he says, "Now, I will tell you something about Beat 3." He says, "I went down in Beat 3, *me and my friend, Wheeler,*" and he says, "I had thought to stump the Beat, but," he says, "after I got down there in a portion of that country we came to the conclusion that I could do more in the saddle than I could on the stump. Therefore, we went around to electioneer." He then says, "And I tell you," he says, "when we started out we took along with us something like this." About the time he said that I could see an opening in the crowd ahead, and he pulled out a pistol, I took it to be—a good, long one. He says, "We took along something like this." Then he put it back in his bosom. Many persons laughed then. He never stopped his discourse, and went on saying a few words in regard to electioneering, and, he says, "*I tell you, my friends, it is the best method of electioneering I ever have seen.*" The crowd laughed. There was some cheering then. There was some laughter and some hallowed. "Well," he says, "I wanted to tell you about our electioneering." And he went on and he says, "*My friend Wheeler is a noble hand to electioneer.*" He says, "We would go down," and he says, "we would come to a house, and my friend Wheeler would get right down and go right in and take a seat right by the fire with those persons," and he said, "He would electioneer a few minutes, and they most invariably agreed to vote the ticket before we left." Then he had some applause. Then they asked him, "Did you hurt anybody?" That voice was heard in the crowd. He says, "Oh, no; we didn't hurt anybody." ["Captain" Joe evidently became a member of the Ananias Club early in his political career.]

Mr. Bailey said in his speech that it would be well for some person to go around and see those people who affiliated with the opposite party and were voting different or were willing to vote different, and encourage them to come together and vote with us; and I do not remember the words, but there were several words said in regard to asking them to turn out and as he wound up that passage of his speech, he said, "If they agree to come back and vote with us, *grant them all courtesy and be peaceable with them* [listen at the sage-like advice of this "Captain" Joe]; but in the event they should fail," he says, "then what shall we do?" The house cried out then in much tones, "Kill them out, kill them out." It was all gloomy before me, so many persons that I could not see who it was, but there was a loud voice said, "Kill them out," after the cheering subsided. Then Bailey said, "*No, I would not advise you to kill them out, but,*" he said, "*I believe you will do it without advice.*" Nothing was said about a Democratic president. It was only the next time that he thought we would have a Democratic Congress ["Captain" Joe was thinking about Congress even at this early period in his political career].

I have never been a Republican. I was in the Confederate army. In the speech Bailey spoke of some grievance that had been caused by the family, something in regard to having persons arrested some long time before. [The witness appears to have misunderstood this reference in the confusion, as "Captain" Joe was perhaps more interested in the grievance with reference to the then proposed arrest of himself and his associate bulldozers.]

JOHN B. MIDDLETON

was sworn and testified in substance, pages 406 to 422, as follows:

Have lived in Copiah County all my life. I am a farmer. I do not know who drew the resolutions with reference to the Matthews family on Wednesday after his death. I do not recollect hearing that Mr. George S. Doods did. I recollect distinctly asking my son [who was in the mob more or less] one day if he knew who drew up those resolutions on that day, and he said he did not for certain, *but it occurs to me he said that Mr. Bailey and some other young man there did it.* I said that some of it was a very weak thing, and I did not think a lawyer did it [if Bailey did draw them, there is still doubt as to whether or not they were drawn by "a lawyer"].

L. F. BIRDSONG

was sworn and testified in substance, pages 277 to 286, as follows:

I live at Hazlehurst. Was present at the meeting that passed these resolutions after the death of Mr. Matthews. I went down about middle-ways of the court house and told Mr. Sexton [a lawyer] that excitement was running high. And he came right out to make a speech and about that time Major Barry [the ex-member of the Mississippi Legislature] got up and offered some resolutions that

were conciliatory, and he was hissed down at once, and Mr. Sexton then refused to say anything. A majority of the people and the majority of the Democrats of that county did not participate in it or have anything at all to do with it. *A large majority of the Democratic party of Copiah County utterly condemned any violence.* [This was a partisan Democratic witness.] It was simply the ebullition of an excited multitude [wrought into fury by the matchless eloquence and splendid statesmanship of "Captain" Joe, now better known as Coal Oil Joe]; and some of the men were full of whisky. It was a mixed multitude, some of the best men in the county *and some of the very worst.* [Wonder how "Captain" Joe will like this?] Captain Barry objected, *but they forced him down.* I was using my influence to try to get a different state of affairs brought about. I did not want those resolutions passed or published. I used what influence I had, and saw I was powerless and I stopped. While the resolutions were assented to [the resolutions for the adoption of which "Captain" Joe made his famous speech], they were not unanimously adopted. I have heard Judge Cooper, formerly of Hazlehurst, now one of the judges of the Supreme Court, disapprove that. He said it was very unfortunate [but "Captain" Joe was wiser even then than members of the Supreme Court of Mississippi]. No, sir; I do not think that two of my sons were in the mob. One of them went away against my wishes [perhaps "Captain" Joe coaxed him off and promised him a seat in Congress at some future time]. I knew nothing about it. *I am very sorry that he went; I did not want him to go.* I think he had been in Beat 3. I suppose he came into Hazlehurst with the procession on Monday. I did not see him when he came in. I am one of the sureties on Wheeler's bond, as are Mr. Higdon and Mr. Ellis, the latter a brother-in-law of mine. [No wonder it was hard to enforce the law against that mob when its leaders, like "Captain" Joe, had enticed the sons of good men like this one to follow their fortunes.] *It is my opinion that the better portion of the Democratic party disapproved of these offenses.* Mr. Matthews did, through his influence with the Supervisors have a very considerable influence in the selection of grand jurors of our county. [And this was what worried "Captain" Joe.]

J. S. SEXTON, ESQ.

of Hazlehurst, Copiah County, a partisan Democrat who appeared as one of the lawyers for the defense (so to speak), testified (pages LXXI to LXXXI) in substance, as follows:

Have lived in Hazlehurst four years; I am a member of the bar; I know Mr. Joe Bailey. I heard the exceedingly violent, excitable and inflammatory speech that he was said to have made. I heard Mr. Bailey make two speeches. On Saturday night he had been down in Beat 3. Mr. Bailey came in about nine o'clock at night, immediately after this excitement on the streets in reference to these warrants for the men to be arrested. He came in and made

a speech to the club that night. I heard Mr. Bailey make that statement in reference to what they had done down in Beat 3. On the day after the killing, I remember the speech made by Mr. Bailey and I was very much astonished to hear the testimony of someone here yesterday in reference to it. Mr. Bailey did jerk out his pistol, but in this connection, and I was very much astonished to find Mr. Bailey there with a pistol on him. He said, "They accuse us of being bulldozers, and all that sort of thing," and he says, "This is the kind of instruments they persuade our friends with down in Beat 3," pulling out a pistol and speaking of the opposition, and the only demonstration made by Democrats was in response to just such appeals as that. [Either this witness was lying (or mistaken), or every other witness lied. He probably was, as to what Bailey said about this six-shooter, or possibly Bailey was lying about their operations, for nowhere in the testimony can it be shown that "the opposition" had resorted to violence.] *I think that was uncalled for and unbecoming, because he is a man of intelligence and I was surprised to see him jerk out his pistol.*

I was very much opposed to the passage of the resolutions and tried to speak against them, but just about the time I was getting up in the audience there was an old gentleman of our county there who has lived in the county a long time and represented the county in the Legislature, got up to say something against it and I saw from the disposition of the crowd that I could not do anything. I know a very large majority of the people of that county do not endorse those resolutions [and yet "Captain" Joe did]. Yes, I saw what they term here a *mob*.

Major Barry did not undertake to speak at any considerable length; he declined to speak; he got up and said, "I object to the passage of these resolutions. I am willing to hold a man for all that he does, but I am not willing to go so far as to say what those resolutions do say, that they will hold him responsible for whatever crimes may be committed in the community." I heard Mr. Bailey's speech when he flourished the pistol [Wednesday after the election and assassination on Tuesday], and I also heard a speech of his a few days before the election, on Saturday night, when he came in from Beat 3, wherein he said that he heard *there was a warrant for his arrest. Mr. Bailey said he understood there was a warrant for his arrest; that he was to be arrested as a common vagabond and disturber of the peace* [and such he was, or all the rest of the witnesses belong to the Ananias Club, and Bailey's word was to be taken, as he has since wanted it to be taken in Texas, without proof of its verity].

After these resolutions were passed, which I considered very unjust towards the Matthews family, *and unjust towards ourselves*, I thought if there was a mass meeting (because the other was not a mass meeting) [it was just a meeting of the mob], and they would pass resolutions regretting the circumstances that had arisen and would say that these resolutions were not the sentiment of the people,

it would be a good thing and I think so yet. *I was perfectly astonished when I heard of it. I never dreamed of Mr. Matthews being killed.*

JAMES S. SEXTON

Attorney for the Defense, was sworn and testified in part, pages 575 to 589, as follows:

On the day of the election a young man named Bill Higdon [one of "Captain" Joe's lieutenants] came in from Spencer's Mill very much excited, *and Mr. Joe Bailey, Pooler Britton, and several others got horses and went out there for the purpose of assisting our friends in the event there was a general conflict there. They had no idea of making a disturbance, I think. [And yet "Captain" Joe told them after they had gotten down there and found that it was a false alarm, that "they had ridden entirely too far not to do anything"; so that the Independent majority of 70 at twelve o'clock was reduced to a total Independent vote of 21 to 24, and the Democratic majority placed at 80 when "Captain" Joe and his crowd "had done something."]*

I know that I saw *Mr. Bailey* and Mr. Britton and a number of others going out. I think when the appeal came in they volunteered their services [and as usual in such lawless matters, "Captain" Joe took charge].

WILLIAM OLIVER

was sworn and testified in substance, pages 290 to 293, as follows:

[This witness was a partisan Democrat and introduced by the Democrats, as a great many of the witnesses were.]

I live at Wesson, Covich County. Have lived there 13 years. I am secretary and treasurer of the Mississippi Mills at Wesson. I only heard that there were men going around electioneering, but I did not know who they were. *I did not approve of this bulldozing. I have opposed it. I believe in managing things peaceable and lawful.* Of course, in the Democratic party, as well as in any other party in any country, they have *some of the bad element* ["Captain" Joe's element], but I think the majority of them are the best element among the white people. I do not mean to say that that covers the entire voting population of the county, but *the intelligent and best element are in favor of law and order.* I have talked with a great many who regret anything else except having done things in a peaceable, lawful and quiet way. That is my opinion of our people. [But not "Captain" Joe's.]

J. M. NORMAN

was sworn and testified in substance, pages 300 to 309, as follows:

I was born in Covich County; have lived there all my life, nearly 51 years; was chancery clerk for seven years preceding the first Monday in last January.

Yes, I knew some of the persons who were engaged in *that mob* or procession, as some people *prefer* to call it. [Wonder if "Captain" Joe *prefers* the softer name?] I will give you those I recollect having seen. I saw them come into town. *A young man named Bailey was one.* He was a Democrat. The Democrats were electioneering sort of all together then. They were not mixing with the Independents at that time [except with shot and shell, it seems]. I know a good many of them if I could just think of them now. Mr. Womack, I recollect was one; Mr. Ras. Wheeler was with them; I saw Mr. Shelton, I believe. I learned more from a speech that *Mr. Bailey* made that night than any other way. [We have no detailed report of this Monday night speech, but have a detailed report of the one made on Wednesday after the assassination on Tuesday.] He told me in his speech—he said that they had been down there electioneering—that they had hauled a cannon around and shot it off and would fire off the guns on the road and they would go to the negroes' houses and call them up and electioneer with them. [The author has omitted the testimony of several negroes, ex-slaves, who appeared before the committee with their evidently truthful accounts, horrible, excruciating, painful and repulsive in the extreme. Harmless, helpless, old ex-slaves, respectful and polite, were treated more cruelly than beasts of burden. The profanity of *the mob* on their nightly raids, as rehearsed by these witnesses, was low, offensive and revolting.] Yes, *I heard Bailey make a speech that evening.* The parties were armed when they came in town, some had guns and some had pistols.

J. H. THOMPSON

was sworn and testified in substance, pages 315 to 327, as follows:

I have lived in Copiah County 60 years or over, at Beauregard, ten miles south of Hazlehurst. I understood one of my nephews was in that procession. I am very sorry that some of those resolutions were passed. I thought it would do no good. For instance, where they said they were going to send to organize the negroes [that the Matthews were]. I told them that that was unnecessary, because I did not believe that the Matthews did organize the negroes. I do not believe it. [This witness was not personally friendly to Mr. Matthews, either. The mob simply built up these men of straw to hide behind.] Yes, sir; I know *J. W. Bailey*, as they call him. My acquaintance with him is limited. I have known him for a short time. I did not know him at all, hardly. I never heard anything against him at all *until I heard that he was in with what you call this mob.* I did not approve of the election of Ras. Wheeler as marshal of Hazlehurst. I think the councilmen were like this mob, in that they acted under excitement. [There was no excitement when the mob was organized by "Captain" Joe and his associates, although there was before they were through with it.] I think now—my opinion is I have not heard them say—I think these same gentlemen [the

city councilmen], if they were called upon to elect a marshal, would not elect Ras Wheeler. No, sir; they denied having any Republican ticket, that is the ones I talked to. It was an Independent ticket entirely. The most of the men who composed it were formerly Democrats. *No national politics were involved. It was altogether a local election*, and the canvass was conducted between the Independent party and the Democratic party.

AMOS W. BURNET

chairman of Independent Executive Committee, was called as a witness for prosecution:

[Mr. Burnet is now a practicing lawyer in Kansas City, Missouri, and from him the author received a letter in which he says: "In regard to Mr. J. Weldon Bailey's record while in Mississippi, it was anything but reputable."] Mr. Burnet, pages 26 to 57, testified in substance, as follows:

I was formerly a resident of Hazlehurst; was 31 years old the 12th day of this month; am a lawyer; have been practicing for three years; born in an adjoining county to Copiah, Hines County; have lived in Copiah since January, 1879; am very well acquainted with the people of Copiah County. Was a nominee for the State Senate in 1881. Was chairman of the Independent Executive Committee of Copiah County.

On the 6th of September, having returned from Jackson, where I went with Mr. Print Matthews to oppose the appointment of an illiterate negro to the position of Supervisor or Inspector of Election, I left my room and was passing the corner of the hotel. A kind of dead-head of a young fellow around there that did nothing, by the name of Charles Hart, remarked to me, "I understand that you say you didn't make sport of Bailey the other night." [What a crime even in that early day!] I remarked to him that I did not and furthermore I could prove that I never mentioned Bailey's name. He remarked, "You are a g— d— liar," and commenced drawing his pistol. His pistol caught in his pocket and I got hold of my knife and made a lick at him and he ran about 50 yards away and I saw that he was going to shoot me, and just as I got to the door he shot me through the groin. I think there were about three men standing near him when he first came up, all right in a group, and just as I came along they spread. After what took place, I concluded they spread for the purpose of killing me whichever way I went. Hart was standing right at the corner of the hotel *and Bailey and another fellow* stood here (indicating) at an angle of about 45 degrees, so that as I got in front of Hart, Bailey would be at my back, so that if I attempted to shoot him, he [Bailey] would shoot me in the back. I was confined to my bed for five weeks.

On Saturday evening preceding the election they [the mob] shot Frank Hays and his wife. They came to me. I went to Captain

Hargrave; Mr. Matthews was along with me, and I appealed to him; I repeat my language to him; I said, "My God, Captain, are you going to sit here, the peace officer of this county, having taken the oath to preserve the peace, and let these people be murdered and outraged in any such way?" I said, "You are not only violating your oath, but you are failing to come to the rescue of suffering humanity." He remarked to me, "He could do nothing without an affidavit." At this time Mr. T. E. Matthews, a merchant in Beat 3, came in; they had driven him from his store and he reported to me that they had shot some half dozen holes in his house and one ball just missed his head. Hargrave having told me he could do nothing without affidavits, I went before the mayor and drew up the affidavit myself, and Ed. Matthews and Mr. Barlow, too, signed it. On the filing of that affidavit, the mayor issued a warrant. I stood there and saw him issue it. He placed that warrant in the hands of the sheriff and that warrant has never been returned to this day; I have that from Mr. Williamson. I was attorney in the case and I know it was not returned while I was there. The identical men against whom this affidavit was made on Sunday morning—T. J. Hargrave was standing on the street—and he sent those identical men back into Beat 3 with guns to put down *the mob*. I have got the names of those men in my pocket. These are the names who were incorporated in that affidavit and against whom the charge was preferred for outraging citizens in Beat 3: E. B. Wheeler, the man who murdered Matthews; J. W. Bailey ["Captain" Joe, of bulldozer fame, both then and now], J. W. Purcer, Ruben Morrison, Charles Hart (that is the man who shot me), J. F. Thompson, Marion McCree, Joel East, Frank Davis, Emmitt Spencer, J. B. Middleton, Bill Higdon, J. F. Wood.

There on that [Sunday] morning, when we were standing on the street, *Mr. Bailey remarked that there had been a warrant issued for him*, but that he did not propose to be arrested until after the election, that he had important business to attend to [just as he had last winter when he wanted to go to Washington instead of continuing the investigation]. *Mr. Bailey remarked that he had important business to attend to before the election.* That he was then going out to quell the mob [the idea of "Captain" Joe quelling a mob that he, himself, had organized]. They went on to the country then on Sunday morning. A few hours after that I heard the cannon shooting about ten or fifteen miles away. He [Bailey] returned then on Monday. They went to Beat 3 on Sunday and they did not come back until Monday. *When they returned they returned with a mob of 150.* [Another witness testified that Bailey was at the head of this mob as they approached the town of Hazlehurst.] We heard the cannon and the shooting of guns for an hour before they reached the town. As they passed the corner just opposite the residence of Mr. Matthews, myself and his family were sitting there. His daughter counted the shotguns, the number of men who had guns. My recollection is that she counted 90. The balance of them had pistols

buckled around them in army style. Some of them had them on the horns of the saddles. They then marched down to the southern portion of South street, and up around by the court house, and in making the second circuit they passed on the west side of the railroad about 150 yards from Mr. Matthews' front gate. As they passed there we were still sitting on the gallery and one and then another would halloo out that "somebody had better get away from here"; "somebody was mighty sick," or something like that. In the meantime, Mr. Matthews had gone to some of the leading citizens there and told them that his daughter was in a critical condition and that he would hate for *this armed mob* to come to his house and disturb his family, and he talked to Dr. Pitts. Dr. Pitts agreed to go and intercede and for God's sake not to let them come to his house and disturb his family. Dr. Otis was another man who went. They marched down the street then and just in front of the store of J. P. Matthews they stopped and held a consultation some fifteen or twenty minutes. They handed John McLemore a paper and he loped off to Mr. Matthews' residence with it. I asked him what Mr. McLemore was doing up there. He said, "He came to serve a resolution on me to tell me that I must stay at home tomorrow and that I must not vote. I told him that they had it in their power to murder me, but that I am going to vote tomorrow unless you do kill me." When McLemore returned to them they filed left and marched out west of town in military style. That was about five o'clock in the afternoon.

On Monday night then, after they had gone out of town, they came back and they were speaking at the court house again that night. A company of them passed over the bridge going east. I do not know where they went, only what was the current report and not denied by anybody as to what they did that night. [Burned the church.] At a quarter past eleven Monday night I left the residence of Mr. Matthews and I went to the depot to take the train to go to Crystal Springs.

For twelve days preceding the election *it was just an armed mob* over that country. They didn't hesitate to say, *I heard Bailey say*, that "We are going to carry the election or kill you Independent Republicans; *we are going to have these offices or kill them*," that is the expression they used on the street. It was a reign of terror. *We sat every night expecting that mob to come there and take us out and kill us.* Every day there would come a report to Hazlehurst of outrages committed during those two weeks. They came to me from Beat 3 and told me their crops were destroyed in the field; that they were sleeping in the woods; that they were afraid to stay in their houses.

On Monday they broke up the meeting of our Executive Committee in Hazlehurst. They came right in front of the hall where we were holding our meetings and one of them hollowed, "Look out, we have got it loaded with shot," and they turned it right loose at the store and the filling or wadding of the cannon fell on the pavement

in front of his store and then one fellow remarked, "Lets put in a log chain and shoot the damned thing all to pieces." [Texans, do you suppose that was "Captain" Joe? It sounds like him.] The men against whom affidavits were then pending, and for whose arrest warrants had been issued, took these identical guns and went out to conciliate the mob.

The first outrage of a notorious character was the shooting into Matthews' store [in the country]; the killing of Tom Wallis and the shooting of his wife; the pursuit of Frank M. Bufkin, a member of the Board of Supervisors, hunting him to kill him. Another case was the shooting of Frank Hayes and his wife. That was notorious and not denied by anyone. It was talked about all over Hazlehurst; I will tell you something else right there in connection with that church. On that evening I recognized *the voices of Mr. Bailey* and Mr. Wirt Norman [Norman was one of the fellows against whom a complaint had been sworn out for burning Daniel Crump's house], as they passed the residence of Mr. Matthews, going in that direction, on the night of the *21st when the church was burned*. These same men the night previous, that had broken up the meeting at the church, were in the crowd. *Mr. Bailey has a very peculiar voice; it is a deep baritone, and a person who has once heard it will always recognize it wherever he hears it.*

The next outrage that I remember was the hanging of Napoleon Demars' son. This man was in his house and they got pretty close to it before he heard them [the mob] and he jumped and hid between the mattress and the bed. They took his little son and they hung him up to make him tell where his father was. He finally told them where his father was and they then pulled him out of bed and they took him out and with menaces and threats they made him take an oath that he would support Hargrave and the entire Democratic ticket. ["Captain" Joe was evidently laying the predicate for an early race for Congress.]

Daniel Crump came to me a few days before the election, on Saturday preceding Tuesday, the 6th of November, and I made the affidavit for him against the parties who burned his house in the night at about eleven o'clock. They shot at him as he made his escape from the burning house. He recognized two of the men who were in the mob [Little and Norman, the latter being the party who was seen with Bailey going in the direction of the church the night it was burned], and the affidavit was made against those two. He said there was some fifteen or twenty in the crowd.

At Gallman we had an inspector that we had recommended for our inspector at that box, Mr. B. F. Burrage, a white man, but they [the mob] concluded they would appoint a colored man named Dave Bell. They took him out on Monday night and gave him a thrashing and then on the day of the election they took the ballot box from him [and yet "Captain" Joe told the Greenville people October 1, 1906, that although he was in this riot, he never stole "any ballots

nor allowed anyone else to steal any ballots." Isn't it queer how Mr. Bailey has a way of "anticipating"?)].

In going from Hazlehurst to Crystal Springs on Monday night before the election on Tuesday, I met on the train an old friend, R. G. Wingate, who spoke to me and said, "I am so glad to see you on here and leaving Hazlehurst." I said, "Why?" He says, "Miller made a speech in Wesson tonight and he is a party to this whole business. He [Miller] says, 'There won't be an Independent or Republican left living tomorrow in Hazlehurst. J. P. Matthews is certain to be killed.' I replied to him, 'Oh, I just think they are trying to intimidate us. I don't apprehend anything of the kind. There has been an armed mob all day in Hazlehurst, but we are going to vote tomorrow anyway.'" "Well," he says, "you see I am not often fooled, and as soon as I heard his speech I took a train to go to Utica to vote against it. *I am not any such Democrat as that to endorse any such speech or to instigate the people to such crimes at that.*"

On Thursday, at Jackson, I met Mr. Dodds [who, with Sexton, was representing the defense before the committee] in the dining room, and he and my brother sat down there and talked. I said, "George, I have not been able to get to Hazlehurst and I had a very narrow escape to save my life, but I want to know the particulars about the murder of Mr. Matthews." "Well," he says, "Wheeler came to me and talked to me about his case, related the circumstances of the death and all, *and just between us here, it was one of the most deliberate and cold-blooded murders I have ever heard of.* I told him after he had related the facts to me that there was more room for him in Texas [what a pity that "Captain" Joe ever found room here to disgrace our state] than in Copiah County."

Mr. Matthews, speaking from my standpoint and what I know of him, was one of the most generous and charitable and order-loving men in the world. He was a great man to keep within the law, and as evidence of that, he has been in public life there in Copiah County all of his life, and there has never been a charge against him of dishonorable conduct; there has never been a record in the court against him for any crime, and he is the only sheriff, going back as far as I have had any knowledge of politics, to 1868, he is the only sheriff who has ever passed out of that office with a clear, clean record.

In his home he was one of the kindest men to his family that I ever saw. His house, you might say, was just a regular hotel. I was there a month with him and I know I did not stay there a day unless they had company, men from the country who stopped with them. I do not believe he had an enemy. I never heard a man say he had anything against him, except his politics, that is all they would say. Socially he was the finest man anywhere.

The relations between Ras. Wheeler and Mr. Matthews were of the most friendly nature, and I speak not from what Mr. Matthews said, but from what Mr. Wheeler, himself, said. Wheeler, at Mr. Matthews' store, was talking to me, and he told me, "Burnet, I want

you and Print to use your influence for me. I am a candidate for mayor. You know that Matthews has big influence here and I think he ought to give it to me because he and I have been the best of friends. I had rather vote for him than any man now that is running for office [Mr. Matthews himself was not a candidate, however], from the simple fact that I never went to him to get an accommodation in my life that I did not get it."

In this last election Mr. Matthews was unusually quiet. This time he told me that he had had many hard times in politics and he had concluded to quit and he was very glad that we had left him out.

In regard to his character for peace and quiet, I may say that when these men were perpetrating all these outrages, I publicly spoke it out on the street that *it was the act of dastardly cowards; that men who would go and drive a poor, defenseless man from a sleeping wife and murder him and then shoot her and go around and drive women and children out into the woods at night, were assassins and I didn't care what party got it up or who they were.* Mr. Matthews told me, "Amos, you speak out too plainly. That is all true that these men who do these things are all cowards; but you are endangering the lives of all of us in talking that way. So far as I am individually concerned, they may kill me, but I don't want them to murder my wife and children."

[On Cross-examination.]

The difficulty with Hart occurred near the hotel. I was going to my office or place of business and I saw Mr. Hart with several others standing on the corner of the street. As I was passing between Mr. Hart and Mr. Bailey, Mr. Hart remarked, "I understand you say that you didn't make sport of Mr. Bailey." I told him I did not and could prove that I did not. "Well," he says, "you are a damned liar," and commenced to draw his pistol. I snatched my knife and struck at him and as he ran I struck him right on the shoulder, and I wished afterwards I had been closer to kill him and I would not have been shot, for I suffered a good deal. I was trying to get away from there. I knew my life was in danger. I knew any way I went I would be killed, and they ["Captain" Joe among them] left me for dead. There is a newspaper man here now who wrote up my obituary.

I have got the names of those who were included in the affidavits upon which warrants were to be issued for their arrest—E. B. Wheeler, J. W. Bailey [Wheeler, "Captain" Joe and Charley Hart always seem to be in the same crowd], J. W. Purcer, Ruben Morris, Charles Hart, J. F. Thomson, Marion McCree, Joel East, Frank Davis, Emmitt Spencer, J. B. Middleton, and the man named Higdon; those are the ones, and J. F. Wood, T. E. Matthews [brother of J. P. Matthews, who was assassinated], and H. H. Barlow made the affidavits.

[Referring to the visit of Sheriff Hargrave and Mr. Meade to

the home of J. P. Matthews on Saturday night after the warrants had been issued for "Captain" Joe Bailey, et al, the witness continued]: Mr. Matthews said to Captain Hargrave, "I have been informed not more than half an hour ago that there was going to be just such a thing as that gotten up to have me killed. It looks as though there was something in it that it is a conspiracy to have me murdered."

By a mob, I mean men in arms in violation of law, going and intruding on men in their private homes and disturbing the peace and enjoyment of their homes, and killing people.

ANTIDOTES FOR BAILEYISM.

I despise those public men who think they must remain poor in order to be considered honest.—*J. W. Bailey in 1906.*

The lust of avarice has so totally seized upon mankind that their wealth seems rather to possess them, than they to possess their wealth.—*Pliny.*

How quickly nature falls into revolt when gold becomes her object.—*Shakespeare.*

As objects close to the eye shut out larger objects on the horizon, so man sometimes covers up the entire disc of eternity with a dollar, and quenches transcendent glories with a little shining dust.—*E. H. Chapin.*

Innocence is calm; guilt is boisterous and cries aloud in the hour of its discomfiture.—*The Author.*

Avarice increases with the increasing pile of gold.—*Juvenal.*

The lust of gold, unfeeling and remorseless, the last corruption of degenerate man.—*Johnson.*

Avarice is generally the last passion of those lives of which the first part has been squandered in pleasure, and the second devoted to ambition.—*Johnson.*

Whatsoever a man soweth, that also shall he reap.—*The Scriptures.*

The avaricious man is like the barren sandy ground of the desert, which sucks in all the rain and dew with greediness, but yields no fruitful herbs or plants for the benefit of others.—*Zeno.*

O cursed lust of gold! when for thy sake the fool throws up his interest in both worlds, first starved in this, then damned in that to come.—*Blair.*

There is a law of forces which hinders bodies from sinking beyond a certain depth in the sea; but in the ocean of baseness the deeper we get the easier the sinking.—*J. R. Lowell.*

Real men let their work, not their words, speak out, and, if reviled, revile not again.—*The Author.*

He who will not give some portion of his ease, his blood, his wealth for others' good, is a poor, frozen churl.—*Joanna Baillie.*

The mind of the bigot is like the pupil of the eye; the more light you pour upon it, the more it will contract.—*O. W. Holmes.*

Bigotry has no head, and cannot think; no heart, and cannot feel. When she moves, it is wrath; when she pauses it is amidst ruin; her prayers are curses—her God is a demon—her communion is death.—*O'Connell.*

Gentlemen indulge not in the vernacular or billingsgate of the bully or the blackguard.—*The Author.*

The bigot for the most part clings to opinions adopted without investigation, and defended without argument, while he is intolerant of the opinions of others.—*Buck.*

There never was any party, faction, sect, or cabal whatsoever, in which the most ignorant were not the most violent.—*Pope.*

A brave man is sometimes a desperado; but a bully is always a coward.—*Haliburton.*

He that ruleth his tongue is greater than he that taketh a city.—*The Scriptures.*

It is with narrow souled people as with narrow necked bottles—the less they have in them, the more noise they make in pouring it out.—*Pope.*

They that are loudest in their threats are the weakest in the execution of them.—*Colton.*

Where boasting ends, there dignity begins.—*Young.*

The private citizen or public servant who masters not himself, unlike Alexander, has unconquered worlds yet before him.—*The Author.*

There is this benefit in brag, that the speaker is unconsciously expressing his own ideal. Humor him by all means; draw it all out, and hold him to it.—*Emerson.*

Where there is much pretension, much has been borrowed; nature never pretends.—*Lavater.*

CHAPTER V.

WHY BAILEY LEFT MISSISSIPPI (Continued).

A. W. BURNET

was recalled, and testified in substance, pages 620 to 636, as follows:

The witnesses that have been called here to New Orleans by the defense and discharged without being called to testify, and who were members of that mounted, *armed mob*, before the election, that I have seen here, are Bill Higdon, Marion Higdon, Joe Purser and *J. W. Bailey*; I do not know whether he was summoned or not. [A Mississippian recently wrote the author that the defense did not put Bailey on the stand because he was so "wild, woolly" and radical that they could not handle him.] Ras. Wheeler has been here, too; I merely got a glimpse of him down on the street. I think Wheeler was registered at Fred's [but the Democratic minority of the Committee evidently did not think it wise to put either "Captain" Joe or "Major" Wheeler on the stand].

[The witness identified and testified to the truth of an interview of his, published in Washington, December 29, 1883, from which the following excerpts are taken]: "There had been an absolute reign of terror in some parts of Copiah County for some time before the election. *The mob which came into Hazlehurst to kill Matthews had been riding through Beat 3 for a week. Warrants were issued for the arrest of those men and given to Sheriff Hargrave to serve, but he has never served or returned them. Warrants were issued for J. W. Bailey, Ruben Morrison, Joe Purser, E. B. Wheeler, the butcher, Emmett Spencer, T. F. Wolfe, the latter was a lounge around town, having no particular business, but picking up odd jobs, and a good many others.*

"When they reached the town they paraded the principal streets, yelling and flourishing shotguns and shooting pistols to the terror of women and children. After hearing a speech in the afternoon, the order was given to mount and they marched back to Matthews' house, and first one and then another shouted, "Somebody had better get away from here." A couple of hundred yards from his residence and directly in front of his store, they stopped and passed the following resolution: "Resolved, that J. P. Matthews leave the town of Hazlehurst, for forty-eight hours, and if his daughter is too sick for him to leave home, then, in that case, he must not be seen on the streets of Hazlehurst tomorrow, must not electioneer, and *must not vote.*" Mr. Matthews sent back word by the messenger, McLemore, that he expected to stay with his family and to vote, unless he was murdered. E. B. Wheeler then gave the order, "File

left, march." *They marched out of Hazlehurst to the west about a mile. Then they halted and a vote was taken as to who should kill Print Matthews. The lot fell to E. B. Wheeler. I know they voted on that subject—I know it from several people, and from Wheeler's own words.* Wheeler and a friend of his were reading a newspaper account of the murder of Matthews, which alleged an old grudge between the two as the cause. "That is not true, is it Ras.?" asked the friend. "It is all a d—d lie," said Wheeler. "There was no grudge between us. *It fell to me to do it, that is all.*" Wheeler never made any excuse for the shooting. I can give you the story in his own words. He says when Matthews came into the polling place, that morning, he, Matthews, said to Wheeler, "Well, good morning, Ras., what do you know?" Wheeler said he knew nothing, and then he asked him, "Print, are you going to vote?" Print said, "Yes," and Wheeler said, "Print, I would not vote." Print smiled and replied, "I prize my right to vote very highly and feel that I owe it to my country." Then he stepped up to the ballot box and gave Inspector Coxwell his ticket. "I then took the shotgun," said Wheeler, "which was concealed in a dry goods box, and cocking both barrels, leveled it on him. Just as I pulled the trigger, he threw his eyes on me and put his hand to his side. He had no pistol in his hand, so far as I saw." *That is Wheeler's own account of the affair. He has told it to at least a dozen men.* One of them said to him after he had heard it: "Ras., there is more room for you in Texas than there is in Copiah." [What a pity that "Captain" Joe ever found room in Texas to drag down her southern ideals of statesmanship and of devotion to the highest conceptions of duty on the part of her public men.] I do not want to give you the names of the men who told me, for *I do not want to imperil their lives. They are still there. Whenever there is a grand jury which is not made up of that very mob, I will give you the names of those very men, but it would not do now.*

"Some weeks before the election I went to Jackson and succeeded in getting an intelligent white commissioner of elections appointed for our side, instead of the ignorant negro that the Bourbons had bought up and wanted appointed. I got home late at night and went to bed. The next morning a friend of mine came to my room and told me *that J. W. Bailey was looking for me to slap my jaws.* I prepared myself for him and went out. When I met him I asked him if he had said any such thing, and told him if he tried it one of us had to die. He denied having said any such thing, but said that he understood I had been making remarks about him and made sport of him. I told him I had not done so; and he said it was all right, we would be friends, and he shook hands with me. A couple of hours afterwards I was walking down the street, and Bailey, Meade, and four or five others were talking together on a corner. As I came up to them they separated, *and all went away but Bailey and a fellow named Hart, who stood so that I had to pass between them.* Hart

said to me as I came up: 'I understand you say you didn't make sport of Bailey.' I said I didn't. He began to draw his pistol and said, 'Well, you're a liar.' I struck at him with my knife and he ran away. His pistol caught in his pocket. When he got thirty yards away he fired, and the ball went straight through my body. That was how I got my wound."

On Monday night after Barksdale's speech, *J. W. Bailey was called on for a speech. He said: "I have been in the saddle six days and I am not fit for speaking. I will now make a motion that we appoint a committee to bury the dead Independent and Republican voters of Hazlehurst tomorrow."* ["Captain" Joe's experience and pretensions as a political undertaker were of early origin and rank growth.]

H. H. HOGG

was sworn and testified in substance, as follows, pages 614 to 620:

I reside in Hazlehurst, Covich County. Am merchandizing. Up to four years ago I have always been a Democrat; since then, I have been voting an Independent ticket. On November 5th, the day before the election, I saw a body of mounted men in our town armed with double barrelled shotguns. I counted 124 as they passed my corner and I suppose there were about 75 guns. I first learned that the mob was coming into Hazlehurst from a couple of young ladies who came running into my house and asked if I had heard of anybody marching into Hazlehurst. I heard that evening that they had sent a note to Mr. J. P. Matthews that he must not vote and if he did, he would lay himself liable to be killed.

Mr. Cas Rines was talking to Bob Middleton in my house a few nights before the election. He said they aimed to carry it [the election] *by stuffing the ballot boxes if they could, and if not, to carry it by bulldozing.*

A lot of us had agreed to vote early and go out bird hunting. When Mr. Matthews was killed, I was within eight feet of the door. It was about the time for the polls to open and Mr. McGinnis met me about eight feet from the door where Mr. Matthews was killed inside of the door. [Question by Committee: It has been rumored that Jim McGinnis was going to testify that he was in the building when Matthews was shot, and that he saw Mr. Matthews raise his pistol against Ras. Wheeler?] Mr. McGinnis, when that gun fired, was shaking hands with me, and Frank Morrison walked to the door within eight feet of me to open the door of the polls so that McGinnis was not inside of the building. After the gun fired McGinnis jumped in back of the door and drew his pistol and said that the ball had opened and if he had any friends, let them come now and protect him. Yes, sir; I think he knew what had happened when that gun went off. I think he knew from his actions. There was much excitement in Hazlehurst the day Mr. Matthews was killed; women and children running all over the streets hunting up their brothers

and children. The first man I saw that morning was Rube Morris [one of "Captain" Joe's friends for whose arrest a warrant was out]. He passed my house with a double barrellled shotgun in his hand.

I have known J. P. Matthews seventeen or eighteen years; known him well. I was born in Alabama, *and was in the Confederate Army. J. P. Matthews was as peaceable a man as I ever saw.* As charitable or more so than anybody. So far as I know, Leon Matthews and the other brothers are peaceable, quiet, generous and open-hearted men.

GEORGE E. MATTHEWS

was sworn and testified in substance, pages 391 to 394, as follows:

Have resided at Hazlehurst, Copiah County, since 1869 or 1870. Am a native Mississippian and a brother of J. P. Matthews. The mob was composed of white men, Wheeler was major. There was *Joe Bailey* and Hans Penn, and Bob Penn, Rube Morrison, Joe Purser and Wheeler. On Monday this crowd came in and went down and fired the cannon and the report came in town that they were coming to our house, to Print's, my brother's, to *bulldoze the family*, and I went to Dr. Oatis and asked him to go and see Mr. Hargrave and the leaders and stop it. My wife had been sick for weeks. The doctor was attending her and my brothers' daughter also.

W. W. COOK

(a Democrat), pages 327 to 340, was sworn and testified in substance, as follows:

I have lived near Hazlehurst fifty odd years. I have held different offices for about fourteen years. Sheriff for six years; also held the position of Probate Clerk. I saw Mr. Hargrave go out to meet this crowd of *armed men* who came into Hazlehurst on Monday. I went up to town Monday morning. I had heard about *this mob* as they called it, perambulating about District 3, and general rumor gave some outrages perpetrated by them. I was not in town every day, and on Monday morning when I went up there, Mr. Hargrave came to me and said, I do not recollect his exact language, but the idea was this: "These men are coming in; will you go with me and meet them and talk to them? Do you think it would be a good idea to go out to meet them?" At once I agreed with him. I thought it would be a good idea for him to go and if he could get two or three steady old citizens to go it would be well. I told him I would go and asked him what time they were expected in, and he said I think, about two or three o'clock in the evening, but before I went home to get my horse he came and told me that they would be there about twelve o'clock. I did not have time to go home after my horse and I saw an old gentleman crossing the street that I looked upon as a good citizen, and he too thought it was a good idea to go out and meet and talk to them. In the meantime, I understood there were some sick ladies in the town. I did not suppose that there would

be anybody killed or damaged, but the idea was to caution them against that. Mr. Higdon [Sr.] was the man I spoke to about going out, and he told me that he understood Miss Matthews was quite sick and said, "I will go and see Dr. Pitts and ascertain the fact." He came back and told me the Doctor said she was very unwell. [Remember this witness is a strong Democrat, but evidently a law-abiding citizen]. We got a hack and started out and I suppose when about two miles we met them. My talk to them was somewhat thus: "Gentlemen, I do not suppose you propose to kill anybody; but there are some sick ladies in town and in your passing around, have respect for them." They asked me who they were, and I told them who. When I first mentioned Miss Matthews, *there was some little murmuring about it* [remember the affidavits and the warrants], and I told them, "Gentlemen, there is this request we have got to make; if you have a notion to pass Mr. Matthews' dwelling, just say to yourself there is a sick lady in that house and show the respect she is entitled to." They told me they would do it [but they didn't]. That is the amount of it; the idea was to caution them against any violence or outrage. Mr. Hargrave made similar representations to them. He was present when I was speaking. He agreed with me. *I suppose he knew what they were going in for* [to murder Matthews], *but I didn't.*

As a rule, our people are quiet and law-abiding. *Of course there are exceptions.* Our elections, as a rule, are free from turbulence and violence. It was so in the three elections that I was in. *At the last election there was no Republican ticket. I think it was an Independent ticket composed of Democrats,* except as to one, Mr. Leon Matthews, he was a candidate for sheriff.

My first knowledge of this political company marching through the county was to the effect that they turned out night and day electioneering and had a cannon firing it around. *Then I heard all kinds of stories after that. I think whoever killed Tom Wallis and his wife ought to have been pursued, arrested and brought to trial.* I did not believe the stories I had heard of the outrages at the time, because I did not think any man whom I knew in that country would be guilty of the outrages I had heard were perpetrated. My object was if the boys were determined to go into town, to ask them in passing houses where sick persons were, to show them respect.

I cannot recollect many of the names of those that were in the Company. I do recollect some: Ras. Wheeler, W. W. Womock, one Higdon and perhaps two, Mr. Spencer, Jes. Thompson, Jr., I think *Joe Bailey* was with them [other witnesses said positively that he was] as were also Joe Purser, Mr. Hart, Ruben Morris, Bill Higdon, Henry Spencer, J. F. Thompson, and perhaps Marion Higdon, Emmett Spencer, and C. J. Allen [*just that old crowd for whose arrest warrants were out*]. I would say there were 75 to 100 or maybe not more than 50. There was a good smart crowd of them. There were some men in that crowd that I do not think would be

recognized generally as the best citizens; some wild young men; men that I do not consider our best citizens. *Many excitable and drinking men.* I heard of their doing things that I did not think was in keeping with the law. In some respects, I do not think the Democratic party pursued the right policy in electioneering in our county last fall. I understood before I went out to meet the crowd that *they were doing things that I considered in violation of law, and they were not, therefore, law-abiding citizens when they violated the law.* [This from a Democrat, and an ex-sheriff!]

All of the candidates on the Independent ticket last fall were respectable men. I said that, as individuals, I considered them so, that is respectable.

J. L. MEADE

was sworn and testified in substance, pages 550 to 557, as follows:

[Meade was Chairman of the Covich County Democratic Executive Committee, and a participant in many of these transactions.]

Have resided in Covich County since 1880. Am a lawyer by profession. Was chairman of the Executive Committee of the Democratic party at the last election and as such I did not encourage lawlessness or violence during the campaign.

On the day before the election *it was understood* that there would be a crowd in town that day. I told the city marshal that there was no danger in my judgment of their disturbing his sick wife or the wife of Mr. Ed Matthews. I went up to the store, however, and after some talk with them [the Matthews] told them what I had heard and told them that if anyone undertook to interfere with their families that day, that I would assist in protecting them; that I would take sides with them and do what I could in protecting them. I pledged him my word that a gun should not be fired by the crowd on the east side of the railroad. Mr. Matthews thanked me apparently with some gratitude.

Mr. Bailey made a speech after Mr. Matthews was killed. As to whether or not he was murdered, I am not called upon to try that case. *Mr. Hart and Mr. Bailey were in the crowd that came into town on Monday before the election in line, two and two.* He [Bailey] was in that crowd. I think they held a meeting in town. They went off by themselves when I came up. I do not know why they were coming [to town], but having heard it, to carry out my promise and assure myself, I went to see and did what I stated.

When they [the mob] came nearer, inside of the corporation, the members of the band went out. I went with the band and as it started in town again I was at the head of the band for the purpose, and leaned over and whispered to the leader as I turned the corner for him to turn too, and I was satisfied that the procession would follow, too, in that way. I turned them around and brought them up to the courthouse again [this would indicate *that the mob intended, originally, to go direct to Matthews' house and murder him,* for some

of the witnesses testified that members of the mob were cursing each other for their cowardice in not carrying out their plans. Mr. Meade "turned them around and brought them up to the courthouse again." Another witness testified that they went around behind the courthouse and were much agitated *about those affidavits*. It will be remembered that Meade got up and left them caucusing *behind the courthouse*, because they insisted on sending the resolution to Matthews that he should not vote, to which he, Meade, was opposed.]

T. J. HARGRAVE

the Democratic Sheriff, was sworn and testified in substance, pages 564 to 575, as follows:

I reside at Hazlehurst. Was first elected Sheriff November, 1881; re-elected for two years at the November election in 1883. *To take our people as a whole*, I think they will compare favorably with the people of any other county in the state as peaceable and law-abiding citizens. *There was a warrant placed in my hands by the mayor of Hazlehurst for the arrest of some twenty-five men on Saturday night before the election, at about nine o'clock*. On Sunday morning there were several of the parties against whom the warrants were issued who came into Hazlehurst and I arrested them and on Monday morning I gave the warrant to my deputy and he started on to Beat 3 to arrest the remainder of the parties named in the warrant, and he executed it on all except probably three, *as they were coming into town on Monday*. He just took their personal recognizance to appear on Wednesday. They [afterwards] came to me in Hazlehurst and said they had been arrested and demanded a trial ["Captain" Joe demanded a trial also of the Twenty-Seventh Legislature of Texas, in 1901, because he "had things fixed," but during the Thirtieth Legislature, of 1907, he strenuously opposed "a trial," because his "fixings" were not in such good trim]. I told them that Mr. Williamson was the man to try them, *if at all*. I did not fail to execute my office so far as the arrest is concerned, *but I do not say that it is not true so far as their appearing before the mayor is concerned*. I do not know whether they appeared before him or not. Mr. Williamson told me afterwards I need not bother any further with it and just let it go [Mr. Williamson's testimony shows that he was willing enough to administer the law, *but this mob was too threatening*, and the matter in effect had to be dropped. In other words, "Captain" Joe and his associate bulldozers intimidated the officers *just as Coal Oil Joe twenty-four years afterwards intimidated the suppressors of truth in the Thirtieth Legislature of Texas in 1907.*]

I know my duty when there is a disturbance of the public peace, and that I have the power to call on a *posse comitatus* to help me restore the peace, to put down a mob and protect the lives of citizens and their property but my recollection is I did not hear anything of the mob and its operations until Saturday before the election [all the other witnesses heard of it for ten days or two weeks. "Captain"

Joe had the sheriff scared, evidently]. Mr. Matthews came to me with a list [petition] of names of 75 men [this was the petition to the sheriff] and as a result of that interview, *a warrant was made out against about twenty-five men*. Mr. Matthews told me that there was a mob down in Beat 3 riding around and creating a disturbance. I think I arrested three on Sunday morning. *If they were armed, they had their arms concealed*. They were in Hazlehurst on the street and I did not ask them what they were doing, nor do I remember to have asked them if they had been riding around raiding. I took their personal recognizance for them to appear. No, sir; not in writing. I do not know where they went, nor whether they went back about their same business again, and I did not ask them nor do I remember to have told them that they must not. The men I arrested were Mr. Wolfe, Mr. Purser, Mr. Morrison I think, *or Mr. Bailey* [other witnesses said "Captain" Joe was in town Sunday morning, and then went out to the country "to quell the mob"]. My deputy arrested all the others that were arrested, all but two or three or four, probably. He did not bring them before me. *They were coming to Hazlehurst and most of them were arrested. They were mounted*. I do not know whether or not they continued in the ranks. Some of them came into Hazlehurst in that Company of mounted men and I saw them there. I do not know whether or not they were under arrest while their guns were on their shoulders and they were on horse back. I did not see my deputy. *I went out to try to keep them from doing mischief in Hazlehurst*. I selected Mr. Cook and Mr. Higdon, two good citizens of that town, and went out and met those gentlemen [what a soft name for brigands, murderers and assassins] about two miles from Hazlehurst and told them I had come out there at the request of Mr. Matthews and asked them not to disturb him or any one else in Hazlehurst that day and they promised they would not. [Has "Captain" Joe ever kept his promises?] I think some of the men told me when I met them that they had been arrested that morning and released on a recognizance. Knowing that there was an armed mob scouring the country and deliberately riding into town, and making a demonstration which was offensive in appearance—you begged that mob not to commit any harm on Mr. Matthews and his family, though the deputy under the law had already arrested *these same mounted villains* and let them go on their recognizance? Yes, sir; I suppose that is the law in Mississippi. And having arrested through this deputy twenty-five mounted armed men, who by that time you had learned had been going about this work out in the county, you allowed them still to remain in Hazlehurst with their guns, these mounted men, and to march around there?—Yes, sir. I did not know they were sending resolutions to him not to vote. I heard it afterwards. I did not deputize some of the very men against whom the warrants had been issued to assist my deputy in making the arrests. I do not remember whether or not J. W. Bailey, on Sunday morning, in my presence, one of the men

whose name was in the warrant, said that he was going out to help arrest those fellows. We had no difficulty in making the arrests. All we had to say to the fellow on horse back was, "I arrest you; I take your recognizance for \$100 to appear for trial." Mr. Matthews did not seem satisfied with my promise to arrest those parties if affidavits were made against them, and the warrants placed in my hands. He remarked that he could take twenty men and go down there and and stop it. The affidavit was made sometime after night. The warrant was placed in my hand about nine o'clock, and I tried to get several men to go. I was sick at the time, myself, and I told Mr. Matthews I could not go. On Monday most of these men came into Hazlehurst and wanted a trial ["Captain" Joe must have been in a hurry for his "exoneration"], and the mayor refused to try them. All you did during the ten days preceding the election to keep the peace was to serve one warrant in which there were twenty or twenty-five names and that service was rendered absolutely nugatory so far as the work was concerned, by immediately releasing the men on recognizance—Yes, sir; that is about it. Yes, sir; I was re-elected at this last election. *I was a candidate when the bulldozing was going on, if any went on, and I would not be surprised if it did.* I never have made any return on the warrant at all. I have got it. It is not here; it is in Hazlehurst. *I did not make any legal arrest of them.* They were there ready to be tried [and "exonerated" by an intimidated set of officers, willing enough, but afraid to do their duty].

GEORGE B. HAMILTON

sworn and examined, testified in substance, pages 108 to 112:

I live in the town of Hazlehurst; have been there 25 years. Was one of the last election officers. My duty was to keep a report of the votes. I went to the voting place about half-past eight. Mr. J. P. Matthews came in after no great while. It was a house under repairs and lumber and shavings were all over it, and we had to clean it up and arrange it so as to have a place for a table to write on. There was perhaps a half dozen persons there, clerks, managers, inspectors and mybe one or two more. I saw Ras Wheeler and Mr. Matthews. He stood around and talked with them all. Wheeler was the last man I saw him talking to. About that time we were ready for business; the polls were opened. Mr. Matthews was in there and he says, "As I am here, I will vote before I go out." He tendered his vote and it was received, then he was shot down. I saw him fall. He had just voted and stepped back from the table and was standing right still. If he had any weapons, I did not see them until further along. I was facing him just like you [Senator Frye] are facing me now. I was fixing my papers, standing up at the time; had not taken my seat, and when Mr. Matthews handed his vote in, and he stepped back, I was looking him in the face and was just going to sit down myself when he was shot. I went round and looked at him. He was lying there, smoke in the room. When the smoke

cleared I saw Mr. Wheeler; he had a gun. I saw him unbreach it and take out the cartridges and reload it and then he went out. He was 18 feet from Mr. Matthews. I measured it myself with a square. Mr. Wheeler was standing there behind me. The shot entered Mr. Matthews' person somewhere about here (pointing to the breast). I did not see him any more until he was laid out. I went down to his house and saw him after he was laid out. He was [at one time] Democratic sheriff of the county. Mr. Matthews was appointed challenger for the Independents at the polling place, while he was in the house, before he was killed; he and Wheeler were the two challengers. If there was any bitter and angry talk between Wheeler and Matthews, I did not hear it. They had a little private talk sort of in that end of the house, while we were fixing the counter, and waiting for time to open the polls [from this and the testimony of other witnesses, it is evident that Wheeler and Matthews agreed that they should each act as challengers for their respective sides in this conversation they had. No doubt, this was a part of the scheme of assassination agreed upon by the leaders of the mob]. There was nothing about the conversation that attracted my attention. I saw nothing out of the way as to Mr. Print Matthews but what he was in good spirits. After he was shot down, there came in a man with a gun [McGinnis]. I reckon about the time that he was dead they burst the front door open and came to where he was lying and on the opposite side from me I saw a man stoop down [this was one McGinnis, a member of the mob] and pick up a pistol right by his side, but I could not see that it was a pistol until he reached down and picked it up because it was on the opposite side from me; I saw him pick it up from right up close to the—touching him—I saw that myself. [The fact that this pistol was found under Matthews, either in his pocket or fallen out of his pocket, doubtless furnished the pretext of self-defense on which, as the author understands, Wheeler was afterwards granted bail, though murder was not aailable offense under the law and then acquitted through perjury or political "pull." Thus was justice cheated and murder justified.]

[On Cross-examination.]

I generally vote for the man that suits me, for some Republicans and some Democrats or Independents, just as I please. I went up to the polls before they got ready and Mr. Wheeler said to me, "Will you act as clerk today?" I said, "Yes." Mr. Wheeler seemed to be managing around and getting up the clerks and starting the election ready for voting when the polls were opened. Mr. Matthews was the first man to vote.

G. M. BANKSTON

was sworn and testified in substance, pages 246 to 249, as follows:

I live at Hazlehurst; was born and raised in Covich County. I saw the *armed and mounted men* in town the day before the election, 75 or 100.

I was inspector at the Hazlehurst precinct. Represented the Independents as inspector. I have always voted a mixed ticket all my life; I have always voted for the man. I went to the polls between eight and nine o'clock. When the polls were declared open, and all were ordered out of the house, except the officers of election, Mr. Matthews remarked that he reckoned he had a right in there, as he was one of the challengers and Mr. Coxwell remarked, in a laughing way, "Yes, brother Matthews," or something to that effect, "make yourself at home." Mr. Matthews stepped up and says, "I want to vote." Mr. Coxwell handed him a ticket, having sort of doubled it up to put it in the box, and he, Matthews, held it up with both hands, and said "That is right," and handed it back to Mr. Coxwell. I was running the poll book and while I was looking on the poll book there was a gun fired. I threw my eyes up in the direction of the gun, in the direction where Wheeler was standing, and he had a gun in his hand down and looked like he was reloading and unbreaching the gun. Then I threw my eyes on Matthews and when I first saw him he had his face towards Wheeler; in a short time he commenced staggering. I was on the opposite side of the counter. The box was on the top of the counter. I was about, three, four, or five feet from him and when I saw him stagger I thought I would go to him before he fell and catch him and I ran under the counter, and as I arose from under the counter, he fell before I could get to him. *Matthews and Wheeler spoke friendly that morning. I heard no excitable talk, no indication that there was to be a tragedy.* Twenty-four buck shot, I think, taken effect. There was one hole right under the throat, and the other right across the nipples. I suppose there was a space of three inches between the two loads.

I was in the Confederate army. After he fell on the floor, and I saw he was dead, there was none of his brothers there. Wheeler was standing at the side door when I went out and I never saw him any more that day. [The witness being recalled, pages 289 to 290, testified as follows]: *As he fell a pistol which was found after Print Matthews was shot fell out of his pocket and on the floor, right under his hip.*

L. O. BRIDEWELL

was sworn and testified in substance, as follows, pages 381 to 384:

Reside at Beauregard, Copiah County, Mississippi. I am a lawyer. *I have been a Democrat all my life up to the election of 1883 in Mississippi. I was in the Confederate Army; was a staff officer, in General Hardee's staff.* I knew Mr. Matthews intimately. I can express his character in three words: *he was a man who had the courage of his convictions.* He was a very generous man. White men have told me that they would have been ruined if it had not been for the financial assistance of Mr. Matthews, *while they were Democrats and he was a Republican.* Yes, he did possess those qualities which are described by the word manly; *beyond contradiction.*

GEORGE J. MORTIMER

a witness for the defense, testified (pages LXXXI to LXXXV) in substance as follows:

I have lived at Crystal Springs [ten miles from Hazlehurst]; for about twenty-five years. I am a Republican. *A few irresponsible men have done all the wrong that has been done.* Killings occur elsewhere all over the United States at elections, in cities and in the country. Yes, I voted with the conservative Democrats. *That was a local election with no politics that I could see in it at all.*

W. W. GOWIN

was called by the Democrats, and testified in substance, pages 610 to 614, as follows:

I am a practicing lawyer at Hazlehurst. I know E. B. Wheeler, who was appointed by the Commissioners of election as Democratic *inspector* of election at the East poll in Hazlehurst [the poll where Matthews was murdered] for the last election in that county. He did not serve as such because he was removed by the board or County Commissioners. The board, under the circumstances, regarded him as being an improper man for the place, when complaints were raised by the opposition ticket on account of the active part he had taken in that "procession" or whatever you may please to term it. He had been with them and they deemed that it would be detrimental to a free ballot at the precinct. For that reason I, as one member of the board, voted to remove him and fill his place by another which was done [this was the position of *inspector*. It seems the *challengers* were selected at the polls and not by the board of commissioners—hence Wheeler seems to have butted in to the latter position on the morning of the election, in order, doubtless, to carry out the work of assassination for which he had been selected "by vote or lot," on the part of the leaders of that mob, in order to get rid of Print Matthews, and the affidavits and warrants against Bailey et al]. As a commissioner of election I was, under the law of our State, a general conservator of the peace. As such, Mr. Matthews requested me to do what I could to see that general peace was preserved. I told him I would do so. He spoke of some sickness in his family and said that he did not want any disturbance there. I told him that I would use my best endeavors to prevent all of that. There was something said that day about the canvassers in the western part of the county coming in and he expected them that day or in the evening. By "canvassers" I mean what is termed by some *that mob* from the western part of the county; some rumor or word had come in in the morning that they would be in there on that day. It was about twelve o'clock when I was talking to him. He sent for me just before they came in, I think, with a view to requesting me to use my influence *as a conservator of the peace, as well as commissioner, to prevent any trouble.*

LEON H. MATTHEWS

a witness for the prosecution, testified (pages 1 to 19) in substance as follows :

I am a brother of J. P. Matthews, familiarly known as "Print" Matthews, the man who was killed on election day at Hazlehurst. I am 32 years old; have resided in Copiah County since my birth. My father has resided in Mississippi all his life. He is still living. I am merchandizing; a co-partner of Print Matthews.

Just before the election they started out *in armed mobs* or bodies of men and ranged over the country and killed some and shot others and took some out and whipped them severely and put a rope around some; they did not hang any of them until they were dead. Some two weeks before the election there was a body of them started from the lower end of Beat 3. I saw one after he was killed [Tom Wallis]. This same crowd, they whipped these four. That is the crowd that is said to have killed this other one and shot his wife. I do not recollect whether it was Friday or Saturday; I think he was killed Thursday night and he lay all day Friday and I think it was Saturday that I saw him. I did not see where she [Wallis' wife] was shot. I saw her sitting in the house and they showed me where the shot went in the top; went in the quilt that was hanging up. I looked in and saw the corpse; I saw where the bullets went in the door.

When I saw *the mob* they were in Hazlehurst; they marched into Hazlehurst there and paraded the streets, and then they marched back through the town and around and came up by my brother's house, in front of his gate and marched down some three or four hundred yards to our store and in front of our store; they halted and held a consultation after a little while and sent a messenger up to my brother's house; they waited there until he came back; when he came back and reported to them, they consulted a little and got on their horses and went off. The message was a warning to him not to vote.

When Major Barksdale addressed *this mob* it had marched in from the country. It had been raiding over the country for some time. They had a cannon all over the country firing. They went to my brother's store—I have a brother who has a store in the country—and they went to his house, a big body of them, and shot at his store and he in the house and there was several holes in it. They shot a cannon all around. They waited on my brother [the one who had the store in the country] the next morning with a lot of resolutions, which went on to say that if certain parties were injured in any way, in person or property, I think it read, if there was any injury done to them in person or property [that sounds like Joe and he was there the night before for they called on him for a speech] that they would hold the Matthews family *personally* responsible and *nothing short of their blood would satisfy*. ["Captain" Joe wanted things done "personally" then as he has wanted charges filed "*personally*" since.]

The men who were in *that mob* were then owing us and they have run their property off under that deed of trust and I am going to

have a warrant issued for their arrest for removing the property. The man who killed my brother, Ras Wheeler, has got an open account there unsettled. They were perfectly friendly; not two weeks before the election another brother and myself loaned him \$200 to buy cattle with. A short while before the election he was at our house, at my brother's [the one who was killed] and took tea. There was nothing prior to the day of election to indicate ill feeling between my brother and Ras Wheeler, not a word that anybody ever knew of. He had solicited us. He was a candidate for mayor. Soon after the polls were opened my brother went in and presented his ticket to vote and they shot him and killed him; Wheeler did. Before I got over to where he was killed, I met a squad of six or eight men with guns, but I did not pay much attention to them and think though the Wheelers were in the crowd. [Isn't it a pity that he didn't give the rest of the names, for "Captain" Joe was probably with his "Major" at this critical juncture?] On Monday evening they rode off and that night there was another wing of them came through town and went out in an easterly direction. The day of my brother's death they were in arms all day on the street. They fired a cannon soon after my brother was killed.

I saw the resolutions that were handed to his [brother's] son [after the funeral]. There was only one man presented them, but he said that he did it as a voluntary act of his; that they had appointed a number of men to present those resolutions, but he asked them not to do it; told them that there was sickness at my brother's house and he would not like for a crowd of men to go there and he asked them that he might carry it himself quietly to the house. It might have been on the day of the return from the burial; I do not recollect about the time.

J. P. Matthews left a widow and five children. They moved to Oxford, Mississippi, directly after he was killed. His sons were going to school at Oxford at the time he was killed, and I advised his wife to go there.

It was said by all of them that they were going to carry the election and *if they could not carry it one way, they would carry it another*. [Sounds like Boss Bailey.] Some would say carry it by shotguns and I heard one speaker say they would carry it if they had to carry it to the extent of the knife. I do not know what he meant by that. I know of nothing that my brother had said or done calculated to lead to this murder, nothing *except that he had tried to get this sheriff and the people to stop it when they were raiding over the country*; he went to the sheriff and tried to get him to stop it; he said he had no authority to do it. I believe the next evening, after they visited my brother's store [in the country] and shot into it, he came up to Hazlehurst, he and Dr. Barlow, and Dr. Barlow had a petition from a lot of citizens down there asking the sheriff to stop it that it was terrifying the country and he thought it was his duty to stop it. They went to the sheriff and he said he could not stop it

unless they would make an affidavit. Well, my brother, T. E. Matthews and Dr. Barlow made an affidavit before the mayor for the arrest of these parties—parties that he knew, and carried it to the sheriff and he didn't know who he would get to serve it. But at any rate, he comes down to our house [Print Matthews and the witness lived together] while we were at the supper table—the sheriff, Hargrave, and J. L. Meade, and they wanted to see Print; and directly he got through his supper he came out, and Hargrave told him that he had tried to get somebody to go out and make the arrests and had not got any one and that he would deputize him. Well, my brother said to him that he was informed not longer than half an hour ago that that was the program of Mr. Meade to have him deputized to go out and send a posse of men along with him and he was to be killed. He told Hargrave that it looked very strange; that it looked to us that it was a concocted plan between them to do this because we had been notified. A party had told my brother that he had overheard Mr. Meade say this. Mr. Meade did not deny it. It was *the armed mob* [of which Joe Bailey was "Captain"] that Hargrave wanted my brother to arrest, and of which Meade was a member. [This conversation occurred Saturday night, before the election on Tuesday, and "Captain" Joe Bailey was among the number for whose arrest a warrant had issued.]

Immediately after the shooting of my brother, this company shot the cannon across the bridge from our house [as the "Major" of the mob had just assassinated Matthews, it is highly probable that "Captain" Joe, the ranking officer, was in command on the streets].

JOHN MATTHEWS

a witness for the prosecution, testified (pages 19 to 26), in substance, as follows:

I am a son of Mr. Print Matthews; will be 21 in June. Am living in Oxford, Mississippi, in college there with my brother, S. S. Matthews, and my mother and two sisters are living there.

I was at Hazlehurst Saturday and Sunday before the election; I came from college down there. Was at my father's house. Left Sunday evening for Oxford. I was not there again until I was telegraphed for, after father was killed, arriving at one o'clock that night.

When Dr. Barlow asked my father to go with him Saturday night with his petition of 60 men from Beat 3 to Hargrave, asking for protection, he went and I went along with him. The petition was signed by 60 or 80 men asking for protection for the people. They asked Hargrave for protection and I believe told him that if he could not get anybody to go out there, if they would deputize these 60 men they would protect themselves if authorized to do it, and they would stop it. He said he could not do anything without *affidavits* were made and an hour or so passed in conversation there in the town and they went down to the drug-store; the mayor of the town was a druggist

there also. In the meantime, my uncle came in from the country. He had a store out on his plantation and he brought some shot that he had picked up there that they had shot through his house there the night before, and he also brought a resolution that two men came back the next morning and handed him, and which applied to himself and all the family—*women and children*. But Barlow and these other one or two men that came with him, also my uncle, *made out affidavits against what men they knew that were in the mob* and Mr. Williamson placed them in the hands of the sheriff to be arrested. I do not know how many they made out warrants against, but they had several, a good many, all that they knew. I know that they made them out against—I heard them calling over the names—Frank Thompson, a fellow named Mitchell, *and Mr. Bailey*, and I don't know who else. I heard the names at the time, but I do not remember now. These warrants were given to the sheriff. I asked the mayor about them and he told me they were never served nor never returned to him. They were not returned served nor unserved. We were occupied there at the drug-store till about half past eight o'clock at night. We started to the house and we met a negro man and he called pa off and had a talk with him and as we walked on; pa said that he had just overheard a conversation of Mr. Meade and several others [the witness for the defense, Sexton, testified that Bailey had come into town out of Beat 3 at just about this hour]; *that they had fixed to appoint him [Print Matthews] to go out and arrest these men and would send other parties along that would kill him before he got there; that he would never get back alive.*

While we were sitting down to supper these men came to the gate, Mr. Hargrave, and his deputy, Mr. Lowe, and Mr. Meade. Pa did not come out at first. I was out there when he came out. Mr. Hargrave told him that he had concluded to deputize him to go out and arrest *this mob*. Pa told him that not half an hour before that he had been informed of a plan that Mr. Meade *and others* had fixed upon to assassinate him. I think he told them that if they were going to murder him, they might just as well come there and murder him as to get him off there and assassinate him.

Hargrave and all disclaimed knowing anything about it, as a matter of course; they went along out and the next morning was Sunday morning; part of the mob came in town Saturday night [Sexton said Bailey did] and I suppose they were there Sunday morning; I know they went back for I saw many go back on horses and mules with their shotguns Sunday morning; *some of the crowd I know that warrants had been issued for their arrest and placed in the sheriff's hands the night before, and it was generally understood and I heard that he had deputized these men to go out after the others, the very men that affidavits had been made out against. The men against whom warrants had been made out had been deputized by him to go and stop the others.*

The reason why I was there, I got a leave of absence from the

college to attend the State Fair. One of the professors went with me and I wrote him that we would spend Sunday home. I had promised the chancellor to be back on Monday for recitation and pa insisted that I should go back on Sunday evening. I asked him to let me stay and he said no, he did not think there was going to be anything. He thought everything would go on smoothly; he didn't think they were trying to do anything, though he concluded to go with me to Jackson and see Mr. Lowry, the governor. The sheriff had refused to give assistance and he went to Jackson, so he told me, and applied to the governor for protection. I left him at Jackson and went on. I received a telegram Tuesday afterwards about 12 o'clock of the death of my father and I went down. At Crystal Springs [enroute from Oxford to Hazlehurst] Mr. Jordan, *one of the Democratic bulldozers*, came in the car and took a seat by me. He is marshal of Crystal Springs. He told me that he had just come from Hazlehurst on the train that met there. That he had just come up to meet me and he broached the subject and commenced talking about the murder; that it was a great outrage and all this kind of thing, to start out on; and he asked me what I proposed to do about it. I told him that I did not know if I could do anything, *but that every dog had his day sooner or later*. [Joe's day of exposure has been long postponed.] About that time young Mayes and young Ware came in the car and told me they had come up to meet me and understood that Wheeler [the assassin], Hart [he who shot Burnett for denying that he "made sport of Bailey"], *Bailey, and the crowd were to meet my brother and myself at the train and have a fuss and probably kill us, and that they had come up on the train*. We got to Hazlehurst and the wife of Dr. Wheat, one of the professors of Greek at the University, came down with us and my brother was with her and I was with these two young men and we passed through the crowd. My father was killed Tuesday and on Wednesday they had speaking. ["Captain" Joe Bailey was the sole orator on behalf of the adoption of the resolutions.] I don't think it was in the court house. I think it was in the street. I know it was not in the court house, because I could hear the speaking distinctly from that house, that is, his voice and the hallooing and yelling, and everything of that kind, the shooting of cannons, the playing of the band, and the marching around. I was not there; I do not know what they did, only what was handed me.

They didn't bury the corpse until Thursday; it was impossible to get the vault finished, and the workmen were afraid to work at night; they just worked in the daytime. Tuesday and Wednesday and Wednesday night nearly everybody was going all over the street all day and all night with their guns. You could see them at any time of night or day that you wanted to. I heard they kept the roads guarded, but I do not know how true that is, and turned back a good many of our friends who wanted to come in; but there were many of them came through the woods, though, and slipped in. Just as I stepped out of the carriage on returning from the burial and before

they [the family] had all returned, a man named Jehu Butler walked up to the fence and called me out and went on to say that he hoped I would not think hard of him for what he had done, etc. He had these resolutions in his hand and said they were sent there; he told them that he was on good terms with the family and that he would volunteer to bring them the next day after the burial if they would do that and he handed them to me as soon as I returned from the burial. I stayed there about a week, and day and night this same thing, shotguns all over town, night and day, and they were there when I left.

I saw the organized company of men go out with shotguns Sunday morning. They were not in town Saturday. They went out three or four at a time. Maybe you would see one go and in a minute another go, and directly six would go, just in that way. I know Ras. Wheeler, who killed my father. He is a cattleman. They were very friendly. I have seen him at the store. Before I left there, there was never a day scarcely passed but what he would come around the store and talk for an hour or two.

MRS. MARY MATTHEWS

wife of deceased, was sworn and testified (pages 58 to 61), in substance as follows:

I now reside at Oxford, Mississippi, with my family. I left Hazlehurst, November 26th, without an expectation of ever returning. I did not expect any of my family to go back there to live, although our property is there. My husband had a good deal of real estate. I have been living in Hazlehurst 12 years. I was born and raised in Copiah County. All of my family were residents of Mississippi. My two oldest children were in college at Oxford.

I saw this crowd of *mounted and armed men* around Hazlehurst at the time of the election. They passed my house. They were armed. They said, "Somebody had better get away; somebody was mighty sick," two or three times. They were hallooing. They stopped right at the bridge near the house. They traveled around the street until Major Barksdale went to speak and then they went up there and whooped and hollered and cut up. In the morning they came in firing; *they said they had been riding all night*. Yes, I know Mr. Wheeler; he had visited the house not a great while before that; *had taken dinner or tea there one night*. My husband and Mr. Wheeler were on good terms; they never had any difficulty. My husband was a peaceable, quiet man in the neighborhood. He was very quiet and peaceable at home and everywhere. We always had company. He had dealings with the Democrats just the same as with Republicans in his store.

Yes, I saw this crowd of men on election day after my husband was killed. *They were on the street and some of them at the gate and some of them in the yard, standing around. Thy told the negro that dug the vault that he would have to leave there; that they would*

kill him if he dug it. He fixed the vault and left and he has not lived there since. He has not come back. He did not quite finish it. We had that work done week before last. My husband took part in social life in Hazlehurst. He belonged to no church, but he would go to any church; he attended all of the churches, first one and then the other. He helped to support all of them, and helped to build. I never heard my husband endeavor to excite the hatred or angry feeling of any class of people against any other class, either in politics or in any other way—he was not that kind of a man.

J. W. BONDURANT

was sworn and testified in substance, pages 94 to 103, as follows:

I reside in Copiah County, Mississippi, Beat 3, where I have lived all my life. The first I knew of anything about *the mob riding around was when Tom Wallis was killed.* On Friday night before the election I was going from the gin and I met a lot of men in the road. There was going to be a speaking at Centennial that night, where I vote, and I thought I would go. *I met those armed men and so I did not think I had any business there.* They did not have the speaking there that night. There was a crowd came from Spencer's Mill, and met them and stopped at Ainesworth's store, which is about a mile and a half from where I live.

Mr. T. E. Matthews and Mr. Matthews' clerk was there [near Matthews' store], and we stood there awhile and then walked up to the store, that is about 50 yards from the house. We walked in the store and made up a light. They were coming down [from Ainesworth's store to Matthews' store] right there below the store. They came up and hallooed around, "Somebody had better get away from here." Then they hauled the cannon around; we could hear it; and they said, "Turn it on the store," and one of them says, "Put a log chain in it and shoot the damned thing." One of them says, "Ain't you got buckshot; put them in and shoot hell out of them." [Perhaps "Captain" Joe, for another witness testified that they called on him for a speech.] I stood there on the gallery and Mr. T. E. Matthews stood there and they shot the cannon and hallooed and went on and cursed us and hallooed at us to go to hell, "the damned set of s—s-of-b—." And then they rode on up the road and hallooed, "Halt." I was standing on the gallery and Mr. Matthews says come in and sit down, and I went in and sat down on one side of the fireplace, and Ormond was sitting behind me, and they rode up and shot their guns in the store and hallooed and made other noises and went down even with my house and hallooed again and turned and came back. Ras. Wheeler [he who was "Captain" Joe's, "my friend Wheeler," and in the opinion of the "Captain," "a noble electioneer"] says, "Open your mouths, you d— s—s-of-b—s, you," and about that time two pistols or guns fired and shot right in the store, and there was a continual firing. Some of the balls went in the side of the house, some passed through, and some went over our heads and struck some

tinware, and two balls came in the door between Mr. T. E. Matthews and myself; we were standing about a foot apart. They hallooed, "Bring them out and swing them to a limb," and dared us to open our mouths and went on down the road about a half mile and made a negro come out from the house there *and they went in it.*

They went on down to the Thomson place and next morning came back and passed some resolutions there about old Tom Wallis being killed, and they sent five or six men with their guns on their hips, with those resolutions. There was two negroes amongst them [Democratic negroes]. Among the men who came back with the resolutions were Charley Hart ["Captain" Joe's protector and defender against those who would "make sport" of the latter], and some others.

I saw this mob next Sunday and Monday. I saw them on Sunday going down the Netches road. I was going on to Frank Bufkin's and as I got in the road some more of them went on down the road. They were on horseback, armed, and in two squads, about twenty in the last crowd. I could not see how many there were in the first squad. This was about fifteen or sixteen miles from the town of Hazlehurst. I did not see anything more of them on Sunday. I went on out to Frank Bufkin's and that was off the public road. I came back on Sunday night *and Monday I started down to Hazlehurst and I would see a few along every now and then until I got within six miles of Hazlehurst.* Four of them came up and looked at me and put their shotguns that way (indicating). I did not know some of these men, but I did know Marion Higdon, to whom I spoke and says, "Marion, what does this mean; I thought we were good friends?" He was at the store that Friday night. I said, "For my part, if you had wanted me, you know I would have stepped out anywhere to talk to you. There is my sisters and my aunt and all her children there" [near the store]. I think there was fourteen of them, some of them nothing but children, screaming and hallooing, and I told him I didn't like it and I thought it ought to be stopped, and asked what he thought about it. They just remarked about it *there in the mob* that none of them was scared and they did not know any of their women were scared. *Bailey says,* "Bring Bondurant up here and we will make a Democrat of him." ["Captain" Joe began his assault on political "heathens and infidels" early in life.] I told him they tried that sufficiently the other night. That was all he said and I stopped at Jones' *to get out of the mob*, and when I stopped there, I got into it, just about as bad, because one rode in to get a shotgun and his mule would not let him take it and so he brought it back. Old Dr. Jones says to me, "Joseph, what does this mean?" I said, "I do not know, doctor, it looks like the country is coming to a pretty pass." It was Bill Higdon [one of those along with "Captain" Joe, for whose arrest a warrant had been issued Saturday night before this Monday] that rode with me. Bill says, "He [his father] told me to go ahead and carry Beat 3." He had a Navy Six about that

long, and was trying to revolve it. I said, "I would not have thought that of you." He said, "By God, we are going to carry the election." I said, "Do you mean to say you are in favor of scaring helpless women and children?" He said, "No, but damned if we are not going to have this election." ["Captain" Joe must have imparted to Bill some of the former's enthusiasm as well as Democratic (?) profanity.] When I went on I got up with them [the mob] when they were nearly to Hazlehurst. The head of the column was then about a quarter of a mile. [It will be remembered that "Captain" Joe left Hazlehurst Sunday morning, a warrant having been issued for his arrest Saturday night, for the express purpose of "quelling the mob," and now he returns triumphant at the head of the mob, as appears not only from this witness' testimony, but from that of another.] I attempted to ride on around, but they halted me and a fellow fired his pistol and he rode up and down and said, "Why in hell don't you shoot." Just as I got about middle ways they commenced shooting. Every man pulled his pistol and commenced and they fired, I reckon, everything they had and then they halted again and I had to halt and stood there and Hargrave [the excuse for a sheriff] came out and met them. Just as we got into town one of the men rode down the line and says, "By God, I went into this thing to go through with it, and if I can get ten men to go with me, *we will wind matters up*," and one of the mob said you can get just as many backers as you want. Frank Davis said he and Joe Purser gave that answer [warrants were out for the arrest of both of these assistants of "Captain" Joe]. I went on and the first track I came to I went out and told Mr. Matthews [Print Matthews] what they said. Later on in the day I said to Marion Higdon, "Marion, I think this is a pretty pass; he is an old man and not doing anything; there is no use in killing anybody, and for God Almighty's sake, stop." He said, "Joe, I pledge you my word we are going to leave town." Then I asked Hargrave what is the matter, and he said, "That is all right, they are going to leave town now; I am going to do all I can"; but still he was not doing a thing, for I heard him inquiring about what was said when they passed Matthews.

Barksdale made a speech that night in which he said, "Gentlemen, *we shall carry the election regardless of issues.*" They called on Bailey for a speech. Bailey got up and made his excuse that they had been in the saddle [this was the Monday night before the assassination of Matthews the next morning]. I am not sure whether Bailey said that he had been in the saddle either a week, or three or four days. Then they called upon Ras. Wheeler and he got up and says, "I have been in the saddle." He said he was tired and worn out and had been in the saddle; *that was their excuse, and, of course, everyone knew what they meant*; and some of them said that every man must vote all the negroes they could; *and Bailey got up and says*, "They would not have none to vote, for they are all in the woods in Beat 3"; *that was Bailey's words; and then he said he wanted to*

make a move to appoint a committee to bury the Independent dead the next day. ["Independent dead the next day?" "Captain" Joe must have been thinking of the proposed assassination of Print Matthews by his "friend and noble electioneerer," Wheeler, who had been selected to commit the act by "vote or lot." Verily, "Captain" Joe, until recently the idol of Texas, began to propose the "burial" of his political enemies, and he always counts his political opponents his personal "enemies," very early in his public career. Oh, Texans, when will you arouse to the shame and disgrace that has darkened the hitherto untarnished history of our glorious commonwealth? When will you cease to bow down in shameful idolatry to this bigot and bully; this vain pretender? When, oh, Texans, will you rise again to that historic dignity and independence from which the state has recently fallen through the methods and the madness of this coarse and vulgar Standard Oil protege?]

On election day I went up to Marion Higdon [at a voting box in the country]; he was one of the inspectors. He came out and said, "I want to see you." I said, "What is the matter?" Marion said, "There has been a fuss and if you will keep these Independents away from here I will pledge you my word you will not be injured. The Independents are away ahead, and there is no need of any fuss at all." I said, "I do not want any fuss; I do not know anything about it. I just got here." He says, "I know it, but you send word to these men not to come back, and there will be no trouble, but they will get hurt if they come back." I said, "I have got nothing to do with them. I came here to distribute Independent tickets, and that I am going to do." I staid there awhile and began to inquire into the fuss. I looked up the road and saw Harman Buffkin coming down the road and then came *this crowd from Hazlehurst behind him* ["Captain" Joe was in command], and they galloped up and when I seen them coming, I struck a bee-line for Marion Higdon. I knew there was no chance to get away, for they were between me and my horse, and so I stepped up by the side of Marion Higdon. *He looked at me and I stuck to him, and we never spoke a word to each other.* He says, "Gentlemen, everything is quiet; you can't do nothing but feed your horses." One of them remarked, "*By God, we are not going back without having something; we have got to have something before we go back.*" And one of them says, "Yes." One of them says, "Did you hear that Print Matthews is killed? By God, all we will have to do at elections now is just to meet and appoint our men and let them take their seats." [By the testimony of another witness there was twenty members of this particular crowd that came out from Hazlehurst; that "Captain" Joe was in command; that they were very much incensed when they found things quiet around the polls; that the Independents were ahead at this box about eighty-four votes, and that nearly all the votes had been cast; that when the box was turned in after "Captain" Joe and his men had officiated awhile, the Democrats were 84 ahead. And yet "Captain" Joe voluntarily

told the Greenville people, October 1, 1906, that he never stole any ballots, and "would not let anybody else steal any ballots."]

I got on my horse and started across to tell Darius Barlow. Some of them says, "We do not allow none of Matthews' friends to go in town; we have got that thing guarded and none of them can go there. If any of them start from here, by God, we will get them before they get far, *we will attend to that part of it down here.*" ["Captain" Joe was in command.]

Ormand, whom *the mob* was after, was in Rankin County the last I heard and has not been back. Kin. Harrison went and told him that they were going to kill him; that *the mob* said they were going to report to the grand jury, and prove by four or five witnesses that he was the man that killed Tom Wallis and have him hung for it. [Is it possible that "Captain" Joe would lend himself to the murder of old Tom Wallis and then work up a perjury scheme to have an innocent man hung? Such is clearly the inference, and yet "Captain" Joe says that the people of Texas need no proof except *his own word* concerning any matters in which he is interested.]

My father was an Alabamian and a lieutenant in the Confederate army. He had been surveyor and assessor in Copiah County. I never knew a cleverer or better man than Print Matthews. He owned considerable real estate and furnished a good many members of this mob with provisions and supplies to make their crops. He was a liberal man and generous. You could find none more charitable anywhere.

[On Cross-examination.]

Charley Hart, Judge Millsaps, Meade, Ras. Wheeler, *Joe Bailey* and Ernest Jones were some of the men who were present and heard Major Barksdale speak Monday night. *It was just a crowd of that Hazlehurst mob.*



"Bailey goes a courting——

But Miss Texas smells the kerosene."

—From the *Spokesman Review*. Digitized by Google

CHAPTER VI.

WHY BAILEY LEFT MISSISSIPPI (Continued).

J. B. ALLEN

was sworn and testified in part, pages 178 to 182, as follows:

I live in Beat 3, Tailholt precinct. Have lived there 11 years. Born in Tennessee. *I was in the Confederate army.* Was a Democrat up to 1877, and since then have been an Independent. Was a member of the Independent Committee this year. I have a brother who was secretary of the Democratic Committee. He sent me word by another brother that there was going to be trouble and he proposed that if I would withdraw from the opposition committee, he would withdraw as secretary from the Democratic Committee; that he did not want to be on opposite sides when there was going to be trouble in the county. The party that I had heard speak about shooting the first man if they got in trouble was a deserter in the Confederate army, and left me there to do the fighting, and I didn't think there was any danger in it, *but I gave him a sound lecture on keeping such company.* One of the mob came to my house, a brother-in-law of my wife. He called me out Saturday night the time they passed through that neighborhood, and requested me to go with them, that *it would be best; they might burn my house or my gin and there was no telling what they might do, and it would be safe and prudent for me to go and give my presence to the mob.* My reply was that *I would not give my presence to a mob of such a turn out as that.*

That was Saturday night, the night they shot Frank Hays and his wife. His leg was shot to pieces with buckshot and his wife was shot in the chin and through the neck and shoulder—four bullet holes besides where it struck her chin with one ball. *I saw more guns and heard more guns fire in one week than I heard since I left the Confederate army in 1865.*

They rested Sunday until three or four o'clock in the evening. [Remember that "Captain" Joe left Hazlehurst Sunday morning to go out in the country to quell the mob of which he was Captain and for all the ring leaders of which warrants of arrest were out.] I did not hear the artillery until I got back home late in the evening [Sunday] and then I heard the cannon a good many times. Men and women slept in the woods. I saw the bulldozers at Tailholt in force on election day, talking, hooting and making remarks to intimidate voters, and reading dispatches from certain places that so many negroes were killed and so many wounded—700 killed and so many wounded at different places. [And yet "Captain" Joe has frequently told the people of Texas that he never told a lie.]

I was a member of the Independent Executive Committee from

that Beat and that committee did nothing in the world to stir up the negroes to strife. *There was never a more ridiculous report ever circulated in Copiah County than the report that negroes were arming themselves or that Mr. Matthews encouraged such a thing.* I had known him from boyhood. I heard him make the first and last speech he ever made. There was nothing in the world in those speeches to arouse the negroes. I started to go to the last meeting of the committee [Monday], but did not get there; my heart failed me or my courage or something. *Well, I heard so many guns in front I did not know but what Grant's army might be in front.* By the advice of a man that I thought had as much sand in his gizzard as I had and who said he thought it was not safe for me to go any further, I stopped. I did go, though, within a half mile of the firing, but concluded that I had no business at Hazlehurst. [This was the Monday morning that "Captain" Joe and his bulldozers were en route to Hazlehurst.] *There is not a white man or black man in Copiah County that ever believed the rumor that the negroes were rising against the whites. Not a white or black Democrat or Republican, not a single one. No, sir; nobody believed it. Not a Democrat in the county believed it, not a single one.* ["Captain" Joe evidently started that rumor himself to cover up his action by raising a false issue, just as he has done in Texas since.] I had a little piece of property there that cost me \$5,000. I made it with my hard earned money; I made it with that hard fist (indicating). I am preparing to advertise it, and I have offered it for \$2,500. If I could get rid of what I have, I would not live there half a minute.

NOAH RAMSEY

was sworn and testified in substance, pages 182 to 183, as follows:

I live at Netches, Mississippi; was raised in Copiah County; *am a Democrat.*

I know D. C. Woods; he was a candidate for Coroner and Ranger in Copiah County at the last election. He was going up to St. Louis and stopped over at Myles Station for supper the evening before the last election [Monday evening after the bulldozers had been in Hazlehurst that day and resolved that Print Matthews should not vote or die]. Mr. McNair, Major Sessions, and Chancellor McLaren, all Democrats, stopped off to get supper. After supper Mr. McLaren went into the store where Woods is clerk and we were speaking about the firing of the cannon throughout the county the day before, on Sunday, and he [Woods, the Ranger candidate] spoke, and said that Matthews would be killed, and that L. H. Matthews [Independent candidate for Sheriff] if elected would be killed. [Of course "Captain" Joe and his bulldozers would have to control the machinery of the court to keep from being prosecuted for their crimes.] This was the [evening of the] day before Mr. Matthews was killed. I saw the sons of Mr. Matthews as they came down from Oxford and they said they had received a telegram from

their mother that their father was killed, and I told them I had heard the night before he was to be killed, but I did not believe it. I have known Mr. Matthews all my life. Have always found him to be a peaceable man, very charitable and sociable. I think he was quoted to be worth \$35,000 to \$50,000.

B. F. GOZA

was sworn and testified in substance, pages 184 to 189, as follows:

I reside in Beat 3, Copiah County. Have been there since January, 1870. I was born and raised in Clairbourne County, adjoining Copiah. *I was too young to be in the Confederate army*, but up to four or five years ago I was a Democrat; since then I have been an Independent. R. J. Allen and I went to the polls at Tailholt to vote. I had the ballot box. My brother and I concluded not to stay; then says Allen, "After seeing what I have, I cannot hold an election here. I have just seen 40 double barrel shotguns piled across the public road and I will not hold an election under the muzzle of shotguns. I cannot do it. Gentlemen, here are the tickets," he says, and we left. We went a half mile to a little storehouse, when we were overtaken by a messenger who tried to persuade Mr. Allen to come back and hold the election. Finally he made this proposition to Mr. Allen: "Allen, if they show any disposition to do right and the fair thing, you want that don't you?" He said, "Yes, I do. I am willing to hold an election if I was sure there was going to be no bloodshed, but I will not go there and hold it under the muzzles of shotguns." I said to the messenger, "If you will go back there, and their leaders will agree with some of our prominent men that they will appoint a committee—they may have the majority if they want it—to clear that crowd of arms they have and have them carried away. If this committee is strong enough to remove those arms from there and guarantee to Mr. Allen that they are removed he will go and hold the election." Mr. Allen said, "Yes, sir; I will go." In the meantime, some prominent Democrats rode up, among them Dr. Campbell. He said, "I will go with the messenger," and others spoke in the same way. "We will see if we can do it and try to get the thing adjusted," they said. They rode off and after awhile the messenger came back and said, "That is all right, it is fixed up and you can go now without any trouble." We started back and got within two or three hundred yards of the voting place and Dr. Campbell met us. We were on horseback. Dr. Campbell says, "I have come to meet you as friends and to say to you that I do not consider it safe for you to come there, and tell you as a friend I would not come there. *It is one of the most shocking outrages I ever saw perpetrated.*" *Dr. Campbell was a minister.* To say that it was a reign of terror is, I think, putting it mildly. *The rumor about the negroes coming armed was a fabricated thing ["Captain" Joe a fabricator?] it is perfectly ridiculous.* If a few white men rode along the road firing into their houses with their pistols, they would be panic-stricken.

JUDGE R. H. WARE

was sworn and testified in substance, pages 189 to 196, as follows:

I reside in Jackson, Mississippi. *I was an officer in the Confederate army; was wounded there and lost a leg in the service.* I am Assistant United States Attorney for the State of Mississippi. I spoke at Hazlehurst at the time Mr. Print Mathews made his speech, early in the canvass before the last election. *There was nothing inflammatory about the speech.* It seems it was a severe arraignment of the Democratic party for their acts of violence and their disposition to stuff ballot boxes. There was nothing whatever that he said but what I think the evidence in the case thoroughly and completely justified. *There was no appeal to the negroes whatever. Upon the contrary, the tendency and teachings of his speech seem to be just the reverse of that.* About a week before the last election a courier from Copiah County brought a letter to me in my official capacity as Assistant United States Attorney. It was from Mr. Burnet, reciting the outrages that were being perpetrated there and saying that *the election would be made a nullity without the acts of violence were brought to a close in some way.* Judge Lee, my superior, and I both examined the law as to whether or not the United States Government would have jurisdiction in a case of that sort. We differed somewhat in reference to it. He thought, however, that the government had no jurisdiction in the case, being at a state election

WILLIAM P. WARE

was sworn and testified in substance, pages 206 to 211, as follows:

I reside in the village of Hazlehurst. Am merchandizing and a Democrat. *I voted the Democratic ticket with the exception of one man on it, and that man I scratched.* I will give my reasons for doing so. [No reasons would suit "Captain" Joe, for he wants the whole of the machine vote.] Owing to some resolutions that were passed by the club in Hazlehurst, the Democratic Club that was organized, I refused to join them. [This must have been early in the campaign. No other witness refers to these particular resolutions. They must have been vicious, as this Democrat would not stand for them.]

I know Dr. Jones and had a conversation with him concerning *this crowd of armed men* who were coming to town Monday. Dr. Jones, I think, at perhaps eleven o'clock in the morning, came in the store and he seemed to be somewhat excited and said that he wanted to see me. I went into the back room and he told me that crowd—I do not remember whether he said they came in to kill Print Matthews or not—but he said that they had passed resolutions on the street somewhere to kill him. [Here is the later testimony of A. W. Burnett on this point: "They (the mob) marched out of Hazlehurst (on Monday afternoon when Mr. Matthews had sent them word in response to their resolutions by McLemore that he would

vote unless they murdered him) to the west, about a mile. Then they halted and a vote was taken as to who should kill Print Matthews, *the lot fell to E. B. Wheeler*. I know it from several people and from Wheeler's own words.] Dr. Jones said they wanted him to go with them and he asked me as a friend of Mr. Matthews (which he knew I was, outside of politics; we were personal friends), he asked me to try and send Mr. Matthews word or see him in some way and let him know what was going on. According to Dr. Jones' request, I went to Mr. Matthews' store; he was not there and I called Mr. Leon Matthews and told him what Dr. Jones had said, and I told him I thought he had better leave. That was on Monday before the election. Dr. Jones told me there was a resolution passed somewhere *that that crowd that came in had passed a resolution to kill Print Matthews that day*. As I returned to my store I saw 30 or 40 of the mob out in the street in the front of the store, and some of them remarked that they had backed down; "We knew that you would not do it after you had promised to do it." I think they were cursing each other somewhat for cowardice. They said that they knew that they would back out, and that they were a set of cowards; I believe those were the words. [This would indicate that the mob had intended to murder Matthews as they came in town that Monday morning with "Captain" Joe at their head. Of course, he had "quelled" them.]

I told them [the ladies at the Matthews' home] I was satisfied that there were a great many Democrats that did not endorse that conduct; that matters had gotten into the hands of these ruffs [our "Captain" Joe a ruff? Surely his "enemies" must have been pursuing him even then], and it was impossible to control it, I thought. I told them I would find out why they had killed him and let them know; and some of Mr. Matthews' sisters requested me to let them know immediately. I went to the polls where Mr. Matthews was killed and I met Mr. Coxwell, and Mr. Hamilton, and Mr. Bankston, and other managers of the election, and they all said that they did not know anything about why Wheeler killed Matthews. They said that when they opened the polls Mr. Matthews turned and said, "Well, boys, I believe I will vote and go home; my wife (or my daughter) is sick and these people requested me not to stay on the street," or something of that kind. And he took the ticket in this way (indicating) and folded it and handed it to Mr. Coxwell with both hands, and Mr. Coxwell said just as he presented the ticket the gun fired and the doors were closed. Just as they were making that statement, there was a crowd of boys (*I do not consider them Democrats or anything. I consider them outlaws*), *I don't know how many, crowded in the door and told these people [the managers of election] not to be telling anything about that killing; if they did they would go the same way.*

Mrs. Millsaps, the wife of the minister; requested me to go and see him [Mr. Meade]; she said that Mrs. Print Matthews was suf-

fering from heart disease and liable to die at any moment, and asked me to go and get them not to fire the cannon any more, and find out why it was fired. I saw Mr. Meade about the firing of the cannon. *The first day* he told me that if Mr. Matthews was killed, they had promised the club they were to fire the cannon; *the second day* he told me if there was any disturbance, they were to fire the cannon.

On Monday night before the election, I advised Mr. Matthews to leave town, as I knew that crowd would kill him; he said that he had been raised with the sheriff and the sheriff had guaranteed him protection. He showed me a note from the sheriff stating that he would see that he was protected and not to leave town. After Mr. Matthews' death, I was up at the house. *This mob started there several times.* I called on Mr. Dodds and several prominent gentlemen in politics and asked them for the sake of the family or the ladies of Mr. Matthews' family, not to permit that mob to go to the house. *They were coming there when Mr. Matthews was a corpse.* I met no one except those who were going around with *the mob* who was in favor of going. It was with some difficulty, after mutual promises, that we could get *the mob to disperse* [even after they had assassinated Matthews]. They were around the next day [Wednesday] for some time.

Yes, *I went to Mr. Hargrave on the night Mr. Matthews' body was lying in the house when a crowd of these fellows came there and used all kinds of vile language, insulting language,* and asked Mr. Hargrave to stop it and he said he was powerless and he asked me to mention some way in which he could put a stop to it. I told him to summon men and arrest these parties who were on the street. He asked me to give him the names of some of the men, which I did. I gave him the names of the best citizens of Hazlehurst; men whom I knew were opposed to this rioting. I think that with five men I could have dispersed *the mob* myself, if they had been called *posse comitatus*.

When this mob was first organized I do not believe there were more than 50 men who were in favor of it; but it kept growing and growing until it was almost impossible for a man to remain on neutral ground in Copiah County. I do not think the sheriff wanted Mr. Matthews killed.

J. F. DAMERON

was sworn and testified in substance, pages 211 to 213, as follows:

I live in Jackson, Mississippi; have been merchandizing there; am a land owner; have been a farmer in that part of the state and know a man who calls himself Ras. Wheeler, who lives in Hazlehurst. I saw him in a street car on the 13th or 14th of this February, I believe, a street car in Jackson. I remember the first thing that called my attention to the conversation was his statement, "Yes, old Hoar is coming down here with a committee and if I can get a good crack at him, I will kill him, too. I killed Print Matthews. I told

him not to vote and he did it, and I killed him. It was not me that killed him; it was the party. ["Captain" Joe's party.] If I had not been a Democrat, I would not have killed him. I told him not to vote and he voted and I killed him. It was not me, but the Democratic party ["Captain" Joe's brand of Democracy]; and now if the party is a mind to throw me off, damn such a party." He reached over and touched a young gentleman who was sitting by me and told him, "I am the man that did the dirty work. My name is Wheeler; *it was my lot.*" He seemed to have been drinking, I could not account for his talking to strangers in that way except that he seemed to be sort of soliloquizing in his cups. He was opposite me.

H. L. BUFKIN

was sworn and testified, pages 203 and 206, in substance as follows:

I live in Beat 3, Copiah County, at Martinsville. *I was not old enough to be in the Confederate army, but am a Democrat. I saw this armed mob* on the day of the election. They were going to Spencer's Mill, it seems. They were about eight miles from Hazlehurst [on the road to Spencer's Mill]. There were about 20 of them, mounted and armed, *in charge of Mr. Joe Bailey*, a Democrat [he ought to have said "Captain" Joe], about three o'clock, going towards Spencer's Mill. They said there was trouble at Spencer's Mill; that the Independents were trying to run over things down there. I have a brother down there and that was the reason I was going there. I do not vote there. They said my brother was in it. I told them I wanted to go and get him away from there before they got there. Well, they told me I could do it, but it was getting pretty close by and I told them that I would hardly have time to go there, and asked them if they would wait for me, and they said they would. They said they were going to kill my brother. That was after they told me that I had better get him away from there. Bill Higdon [one of "Captain" Joe's fugitives from justice] was the first man I had a talk with and I asked him if they were going to kill anybody, and he said yes. I asked him if I might go ahead and inform my brother. He said he did not know; *that Bailey was the Captain of the club, and that he must consult Bailey.* I rode on and Higdon called Bailey back; before I got by Bailey stopped me and told me I could pass. [How gracious of "Captain" Joe to allow a free American citizen to pass him on the public roads of his native heath.]

When I got down to Spencer's Mill, the Democrats were armed with shotguns and pistols. One fellow with a Winchester rifle. The night before I had gone up to my brother's house to advise him to leave. *We sat up nearly all night.* I felt anxiety not on account of myself, but of my brother. Things looked pretty gloomy around Spencer's Mill. There were a good many armed men there ["Captain" Joe and his company of 20 had arrived.] There were only three or four negroes around there and none of them were armed.

J. E. MATTHEWS

was sworn and testified in substance, pages 233 to 238, as follows:

I live in Copiah County, within 150 yards of Spencer's Mill, Beat 3. Am a farmer, but I sometimes clerk in Hazlehurst. I was clerking in Hazlehurst this last fall. I knew Mr. Print Matthews, *but was not related to him.*

About three weeks previous to the election I was clerking in a store between the two saloons where I could hear a good deal. One day I did not go to dinner until the regular boarders had gotten through with their dinner. I was the only one at the table and the landlord was waiting on me. During the time that I was eating, two men came in and seemed to be very much excited. They sat down at the other end of the table. They did not notice me and I did not know that they knew what my politics were, or anything about it; but directly they sat down. Mr. Frank Thompson says, "It has come to pass that we must carry this election at all hazards; we must carry it and the only way to do it is to kill the ring leaders." Beacham says, "Yes, and the quicker it is done the better." About that time they saw me and the conversation was hushed. This was Thursday before the election on Tuesday. I had heard of the beating of old Henry Fortner and the killing of Tom Wallis and the shooting of his wife and all those things; but my mind was never made up fully that they meant to kill white people until this time. That was on Thursday, as I remember. I stayed there until Saturday; I generally went home Saturday night. My wife sent a horse and buggy in for me and I went out. On Saturday evening, Dr. Barlow came into the store in Hazlehurst where I was clerking and showed me a petition that he had with about 75 names on it, *a petition to the sheriff to send out men to arrest this lawless mob that was going around nights frightening, murdering and killing people.* I think the petitioners were Independents. *I think they were all white; I don't think there is a black name on the list.* I told him I thought it was a good thing. He said he was going to present it to the sheriff. While he was talking to me, Print Matthews and probably Burnet came along and they went up to the court house where the sheriff of the county was, and directly, right on the corner I saw a crowd of men in conversation, and some of them were talking rather loud. I was not busy in the store, and I went out to see what they were talking about, and when I got out there I heard Print Matthews say to the sheriff, "We have got 75 names of respectable citizens of Copiah County, and we petition you, sir, to send us out protection." And as I remember it, some of the leading lawyers there were in favor of sending out men to suppress these and others were not. I know Bing Harris gave his voice against it, and said the sheriff had no right to send out unless he had a special affidavit against each and every individual name in the mob. *Print Matthews asked him how in the world a man could make an affidavit against a disguised mob or party of men;* and that got up a wrangle and directly they came to the

conclusion that Dr. Barlow would make an affidavit against certain individuals to the best of his belief *that he had seen in this mob*. I went to Williamson's Drug Store that night; I went with him and he there made the affidavit.

He (Barlow) did not feel safe to go home and I did not feel safe to go by myself from the demonstrations I had seen and heard. He gave his horse to a party to ride and he and I went out in a buggy together. After the election, I think, *Dr. Barlow was bulldozed into withdrawing the affidavit* ["Captain" Joe has not quit bulldozing yet, as a means of suppressing pertinent evidence concerning himself], probably at his own expense. On Sunday I went back to town. I put my horse up in the livery stable and went over to J. P. Matthews'. Mr. Matthews was then in Jackson [appealing to Governor Lowry for protection]. I stayed and talked with Burnet and Leon Matthews until bedtime and I proposed to go back to the hotel and go to bed. Mrs. Matthews insisted that I should stay all night, that there was plenty of room. I sat down and talked a while longer to Leon Matthews. He remarked that he had had notice to leave town and was expecting them to come every moment. I told him that if he believed that that I would stay and take my chances with him. I stayed all night [Sunday], but I didn't sleep but little.

The next morning I went to the stable to get my horse. Bill Marks, a Democrat and a friend of mine, advised me not to go home; that he had seen and heard a good deal and *that that mob* was down at my house shooting their cannon [that was Sunday night, after "Captain" Joe had gone out from Hazlehurst the Sunday morning, when he had not time to be arrested], and that he thought it would not be advisable for me to go, that I might be killed. I told him that I was going home; that I was a free man and in a free country, and I was going and wanted my horse. "Well, if you will go, here is Colonel Brown, a staunch Democrat, and as good a man as there is, and he says that he wants a seat in your buggy." I told him that I would be glad of his company and he went to Mr. Brown, and *Mr. Brown refused to go with me, because he thought it would not be safe*.

I went out in the buggy about five miles from Hazlehurst and *I met the mob* coming in [Monday morning. "Captain" Joe had "quelled" them], and that was the first time I did get scared; I felt uneasy. I met Emmett Spencer with a cannon ahead and drove my buggy out to one side of the road, and Spencer drove by and he remarked, *"We are going in to wait on Print Matthews."* I had the Independent tickets in the buggy, but they did not know it; I suppose if they had they would have taken them away from me, and torn them up. ["Captain" Joe never stole "any ballots."] While the crowd passed on and as they passed along, one would say this thing and that thing. *Mr. Joe Bailey as he passed, remarked, "We have been out in your neighborhood and will be back there again tonight."* [And they did come back to Spencer's Mill that very Monday night,

in keeping with "Captain" Joe's promise.] The next day (Tuesday) two negroes came to my house and told me that Jess Thompson, Jr., and others said that the first man to vote the Independent ticket at Spencer's Mill would be killed. I did not put much confidence in what the negroes said; I had but little dependence in Jess Thompson and I have got very little now. I was going to the polls to vote and I went to the polls and voted, but I would have given \$100 before I went there for any man to insure my life. I asked if they had many Independent votes polled, and they said, "No," and I said I had one to poll and I would poll it. Frank Bufkin and I were there together. I told them I would see that every man should vote as he pleased, or I would leave my dead body on the ground. About twelve o'clock there was a little row occurred and I took an active part in it. There were parties there on both sides who agreed that if myself and Mr. Mitchell would leave that everything would go off peaceably and every vote should be counted as it was polled. Marion Higdon [one of "Captain" Joe's chums and an associate outlaw] said that we (the Independents) were 70 majority at twelve o'clock. He could not have been mistaken, because it was the resolution of the club that every man who voted the Democratic ticket should vote an open ticket and I saw three-fourths of the Independents that voted vote an open ticket and every man that voted a folded ticket was put down as an Independent. They told me if Mitchell and I would go off every man should vote as he pleased, and the vote should be counted just as it was polled. I went to my house—I lived close by—and directly after I left, Bill Higdon, a brother of Marion Higdon, got on his horse and struck out for Hazlehurst. I do not know what he told them, but he carried a message anyhow that the Independents here had taken the box and created a riot, and all these sort of things. [It seems this was the only box where the Independents had a half a show and when they outvoted "Captain" Joe's crowd it was too bad and something had to be done.] It resulted in about 25 armed men with double barrel shotguns coming back there to kill Mitchell and myself and Bufkin. [This is the crowd concerning which H. D. Bufkin testified as being in charge of "Captain" Joe out on the road that afternoon between Hazlehurst and Spencer's Mill.] When they came there was a Democratic negro that Jess Thompson had taken out of jail who was convicted. They sent him up to my house to tell me to come down and surrender, that this mob was going to have me at all hazards. I put my pistol to his head and told him to tell *that mob* that I was only one man and had done nothing to be killed for, but I was at my home and I had five double barrel shotguns loaded with buckshot and I would empty every barrel of them before I was taken. ["Captain" Joe should have charged this renegade, because "Captain" Joe is a brave man. He told us so here in San Antonio last winter at the time he related having removed his pistol from his grip to his pocket in order to close the abusive mouths of two of his "enemies" who were talking

about him on an adjacent seat in a railway coach.] He went back and didn't come again. When I went away from the polls at noon, the Democratic inspector informed me that the Independents were 70 ahead. When the vote was counted as turned in [after "Captain" Joe and his mob had been on the ground awhile], they claimed we only had 23 Independent votes altogether, and that they were 80 ahead [and yet "Captain" Joe "never stole any ballots nor allowed anybody else to do so"].

The next day after the election I had business down in the lower part of the Beat. When I got my horse that morning, my intention was to go to Hazlehurst and see Print Matthews. [The witness evidently had not heard of Mr. Matthews' death.] I considered him a good friend of mine and I wanted to see him, but parties told me it would not be safe for me to go, that I would probably be killed, and I then turned my horse and went down into the lower part of the Beat; and the next morning about sunup I was about ten or eleven miles from my home. My wife had sent a runner to where I was to tell me not to come home, but to leave the county; that there had been about 40 or 50 armed men with double barrel shotguns and pistols in a rude, angry and threatening manner, who had come to my house and demanded me and I was not there. [That was doubtless the fulfillment of the promise that "Captain" Joe Bailey made to Mr. Matthews on Monday morning as the latter was going from Hazlehurst to Spencer's Mill, and as "Captain" Joe and his bulldozers, having been "quelled," were going to Hazlehurst to "call on Print Matthews."] Well, I did not know what to do. I got on my horse and started for home. My friends advised me not to go, and said that I could not contend against the mob, and I concluded that I had better take to the woods for a time, and I did it. I did not go home for several days. I went home about three days after that, but *I went in the night and I left in the night.*

For ten days before the election that part of the country was in a perfectly demoralized state.

D. C. BARLOW

was sworn and testified, pages 243 to 244, in substance as follows:

Live in Copiah County; vote at Spencer's Mill. I reckon it must have been two weeks before the election that this armed mob were around in that neighborhood firing. I met one of those Wallis boys going after a Justice of the Peace to hold an inquest over his father. I was at Spencer's Mill pretty early on election day. Finally Bob Allen, who lived near by, walked up to me and said that Dr. Barlow had sworn a lie on him and I remarked to him that that was pretty rough talk; that my understanding was that it was a fine time to have rows at election, and I would wait a time, and he went on and *called us s—s-of-b—s*, and all sorts of names and turned around and Mr. Matthews and a lot of them had gone down to dinner and I was giving out tickets while they were at dinner, and somebody ran

down there and told them that there was about to be a row and they went up there and Mr. Matthews asked me what it was about. Matthews and a young man named Waynes got into a talk about it, and finally they drew their pistols. Pretty quick Bill Higdon went to Hazlehurst and when they came back it was late in the evening. I asked a young man by the name of Willis Graham, kin folks of mine, who was in this bunch of men [it was just "Captain" Joe and his bulldozers], and all of them had double barreled shotguns; I asked him what did they mean, and he said Bill Higdon went up to Hazlehurst and told them that the Independents had captured the box and would not let the Democrats vote. They [this crowd of bulldozers that came down with "Captain" Joe] stayed awhile there and caucused around, and I was the only Independent there, except my uncle and he was inspector at the box; and they got about in bunches, and caucused and I thought it might be private talk and I had better not be stepping up in private talk, and I did not hear them talk much, but I understand there that *Joe Bailey said it was too far to ride and do nothing* [If he had heard all that "Captain" Joe did say, and could have repeated it, this chapter would doubtless contain some additional interesting testimony]; *that they did not want to come up that far for nothing, and at the time the polls were closed they counted out the tickets and the highest Independent was 21, so they said, and they remarked that there was 80 majority for the Democrats.* [This is the box where the Independents' majority was 70 at noon, and thus the entire Independent vote was only 21 when "Captain" Joe and his bulldozers got through "doing something."]

YANCY TILLMAN

was sworn and testified in substance, pages 244 to 246, as follows:

I live in Copiah County, Beat 3. Vote at Spencer's Mill, where I was on election day. Higdon brought a message that Matthews was dead. There was a whole crowd of *the armed mob* standing around talking and he [the messenger] came up and said that Wheeler had sent word to the boys of Beat 3 that he did not quite fill his promise. He had promised them all that Print Matthews should not vote, but he did drop his ticket in; and as he dropped his ticket in, he dropped him; and somebody wanted to know how Wheeler did it, and he said, "It looked about like he had shot a rabbit."

I know about *the mob* going to Ed. Matthews' house [this was the witness who was not related to Print Matthews]. His house is about 125 yards from where I live. It looked like there were 30, 35 or 40 [this was the visit that "Captain" Joe had promised Mr. Matthews]. They were on horseback and armed, some with guns and some with pistols. They went and inquired for him. They remarked that he was not at home. Some had pistols in their hands and I could not understand what they were saying. Some went to the negro houses over there on the place, and some came back. They

went over there and inquired for him. They came on back and I do not know where they did go to. [Matthews had left home.]

F. M. BUFKIN

was sworn and testified in substance, as follows, pages 256 to 265:

I live in Copiah County, Beat 3. Have lived there all my life, about 41 years. *I served in the Confederate army four years.* My family was at Ras. Matthews' store [in the country]. We were to have a meeting there that night for the purpose of stopping *this crowd of bulldozers or mob* from going through our neighborhood. They had sent word they were coming and I stayed until the crowd came, *that mob*, mounted and armed with double barreled shotguns and pistols. They came up in front of the store. I was on the gallery at the time. One of the parties just remarked to an outsider that they were going to shoot into the store and burn it up; a young man, son of Colonel Jones, came to me and told me if he were in my place, he would go off the gallery. I stepped off the gallery and Mr. Dunbar came along and we walked off a piece into the woods. He said, "You had better lay down," and I said, "No, I would go back and hear what I could." In the first crowd that came there were about 75. *They called on Joe Bailey to make a speech*, but I do not know that Joe Bailey was there [the members of the mob must have known it, or they would not have called on him for a speech].

On election day I was at Spencer's Mill. About twelve o'clock they had a little difficulty there. Everything went off peaceable and quietly until just about twelve o'clock.

Bill Higdon, a Democrat inspector, told me that the Independents were 70 ahead. That is the way the vote stands, and he says, I advise you to go home and keep quiet and I pledge you my word that you shall have a fair count and everything will be carried on all right. Finally our vote ranged from 21 to 24 and they claimed 80 majority. [This was after "Captain" Joe had come on the scene and said that it was "too far to ride without doing something."]

H. H. BARLOW

was sworn and testified in substance, pages 238 to 243, as follows:

Reside in Copiah County, Beat 3. Did business mostly in Hazlehurst. I run a little store 16 miles west of Hazlehurst, and farm also. I was born in Louisiana, but came to Mississippi when I was two or three years old.

After the mob had been active in our neighborhood there was gotten up a petition with a long list of respectable white men down there (that is largely Independent down in that country), and they were all opposed to it [the lawlessness]. It kept their families disturbed by the guns firing, the negroes disturbed, and there was just a reign of terror, and they petitioned the sheriff to put it down. I went up there and presented it to Mr. Hargrave. J. P. Matthews went along with me. In that petition it stated the condition of mat-

ters in Beat 3; that there was a reign of terror there and an armed mob going about at night driving people out, shooting and whipping them. The signers of the petition asked the sheriff to come and put it down and if he could not do it, to appoint them and they would. Mr. Hargrave saw Captain Ramsey and Judge Mays and they advised him, under the circumstances, to send a man down there; they were to send a deputy along with me. Then we met Captain Harris and Mr. Meade on the street and they advised Hargrave that it would be impossible for him to send a man down *without there were affidavits made*, reciting the crimes and all, before he could make any arrests. I told Captain Harris that *some of these men went to the houses blacked; that they had false-faces on and that I could not tell who they were*; that I was a law-abiding citizen and would like to put it down, but would not consent to swearing to an affidavit against anybody unless I knew who it was. *I swore out a warrant against Wheeler, Joe Bailey ["Captain" Joe, the Mississippi importation, and the present idol of grafters everywhere], and several others that I knew.*

WILLIAM ROBERTSON

was sworn and testified in substance, pages 250 to 256, as follows:

I do not think that any large number of Democrats of that county approve of the violence of Wheeler towards Matthews, or of the action of Wheeler in killing Matthews. *There are very few that approve of the doings of that crowd. There was about 75 persons in that crowd.* They passed right along by my door. I was sitting out on a bench; I saw them.

WILLIAM L. MITCHELL

was sworn and testified in substance, as follows, pages 266-273:

Have lived in Copiah County four or five years. Am running the local paper there, the Signal. Was in Hazlehurst just previous to the election in November, 1883. Was associated with Mr. Meade in the management of the Signal. He was editor at the time. I have been editor since. He was in the office Monday morning and asked me for his overcoat. He said, "I am going out to meet these men who are coming in." It was reported that they were about a mile off; he told me his object in going: *That there had been some excitement on account of warrants or affidavits that had been made out*, and he wanted to allay any excitement and to caution those men on account of the sickness, he said, in Mr. Matthews' family. [This was a partisan Democratic witness and this testimony in connection with other evidence shows conclusively that *the mob* would have confined its crimes to the country districts, *except for the fact that J. P. Matthews approved of the filing of the affidavits and issuance of the warrants and was a strong man in the matter of prospective prosecution of "Captain" Joe and his associates.*] Yes, sir; I heard what afterwards took place between Mr. Meade and that body of

men or their leaders; I was present at a—it was not a meeting—I don't know what we would call it, *that took place back of the court house*. I went around as a matter of curiosity, and they were discussing the passage of some resolution in regard to requesting Mr. Matthews to absent himself from the county for twenty-four or forty-eight hours, and not to vote. They discussed it a while and Mr. Meade afterward said he had made a promise to Mr. Matthews that he should not be molested, *and if they went any further that he was done and would have no more to do with it (the mob) and he rode off and came down town*.

I do not know what transpired before they came into town, or how many they had with them. There were about 75 to 100 in town. *Our paper is strongly Democratic but we never countenanced or encouraged anything of that kind*. These men were very much exercised on account of those affidavits which had been made against them. Yes, Mr. Meade said to me that he was going out because he had promised Mr. Matthews to protect him if they attempted to do anything. I understood that they afterwards [after Meade left them back of the courthouse] passed resolutions advising Mr. Matthews to leave town or not to vote. I can better tell the names of those who were in the procession by families. There were three or four of the Baileys [worse than ever], and the Davises, the Granberries, the Starnes and Browns, and several others and one or two Thompsons. There was Mr. Birdsong, Penns and Higdon. Is that enough? *I do not endorse the resolutions they passed at all, nor the proceedings,—the killing of Matthews. I think the violation of any of the criminal laws is an outrage*.

JOHN T. HULL

was sworn and testified in substance, pages 368 to 381, as follows:

I reside in Jackson, Mississippi. During the last campaign I published the Jackson Tribune. I was the senior editor of the Tribune and as such read the Copiah County papers very closely. The Copiah County Signal did not denounce the methods pursued in Copiah County, but, on the contrary, it seems to me that every issue of that paper fanned the flame; whereas the Copiahian, a Democratic paper was read out of the party before the election. The Copiahian is an old established paper, published there for years and Col. Vance, editor of the paper, although a Democrat, was very conservative in his views and supposed to be fair and willing to publish all sides. During the last election, he gave items of news from the Independents and seemed to displease the Democrats there, and I noticed a few weeks before the election that nearly every issue of the Copiah County Signal, Meade's paper, and the Crystal Springs Meteor, contained a series of resolutions from different clubs throughout the county in which the Copiahian was condemned and the support of the Democrats that had theretofore been given to that paper was asked to be withdrawn. ["Captain" Joe evidently had early train-

ing also in newspaper manipulation: note what follows]. The Forrest Hill club adopted resolutions on the 13th of October, as follows: "Resolved that since we regard the Copenhian, a paper published by J. F. Vance, as an enemy to the welfare of the Democratic party, that all members of this club taking said paper, stop their subscriptions to said paper after this meeting." Also; "Resolved that Brown's Store club endorse the action of Crystal Springs Club in withdrawing all subscriptions and advertising patronage from the Copenhian."

J. P. Matthews made on some Saturday before the election, as reported in the Weekly Copenhian, a speech in which is found the following: "I read a secret circular from the banks urging all bankers to look after a control of their members of Congress in the interest of monopolies and for the oppression and plunder of the people. *This circular urged bankers to the importance of controlling and shaping the course of papers;* and that the Democratic nominees E. W. Brown, G. F. Wolfe, A. B. Guynes, E. A. Rowan, T. J. Hargrave, Bob Miller, R. W. Millsapps, candidates; Harwell Cook, merchant; *J. W. Bailey, lawyer;* with one I. N. Ellis, banker, who furnished the money *had bought the signal in compliance with this circular.* ["Captain" Joe was getting his first lessons in newspaperdom which he has since used to such advantage in Texas in the handling of the Fort Worth (Bailey) Record; the Houston (Bailey) Boast; and the Austin (Bailey) Statesman.]

"The Copenhian is a paper run in the interest of the great mass of the people, a paper which has lent its whole energy in the past for good government, and yet *it has been abandoned by the court house ring* because the editor is too honest to sell out the interest of the hard-fisted yeomenry to banks, corporations and rings. Who led you in the past to victory? This paper you are now trying to crush. Oh, justice, hast thou fled to brutish beasts, when men are so ungrateful." In speaking of the way the Democrats handled the negroes and of their criticism of the Independents in the same matter, the speaker continued: "In other words, the man (Independent) is no man (according to the Democratic standard) when he consents to receive the votes of the Republicans openly, yet your Democratic candidates will take the darky around the corner and pat him on the shoulder and I understand some of you have been attending the colored protracted meeting, a thing which, should I do, or any other man on the opposition ticket, would be considered by you Simon Pure Democrats as unpardonable and every little newspaper in the country would hurl it in our faces."

"I have known Mr. Burnet for a number of years. His family is as honorable a one as there is in the State. I have heard considerable in his praise, a great deal in his praise, from the opposition, and from men who are naturally very bitter and extreme. I think Col. Stewart, who met him in joint discussion, spoke of him in terms of friendship and of pleasure at meeting him; appreciated him as a man of intelligence. [Burnet was the man that was shot by "Captain" Joe's friend for denying that he "made sport of Bailey"]."

(The witness identified the following newspaper excerpts as discussions of the Covich County outrages at the time.) The Brookhaven Leader is a Democratic paper, and under date of December 13, 1883, said: *"The killing of Matthews was bad; the passage of the now famous Covich resolutions against his family was much worse; but the appointment of Wheeler as marshal of Hazlehurst as a peace officer, before he had passed through even the formality of a trial—well, that caps the climax."* Here is an article from the Vicksburg Post, a Democratic paper of December 22, 1883: *"As a matter of general interest we print today a communication purporting to give a truthful statement of the killing of J. P. Matthews and of the bad condition of politics in Covich County. The correspondent bears us out in the opinion we expressed weeks ago, that the good people of Covich County do not approve of the killing of Matthews. When the good and quiet people of that county have the opportunity they will rebuke those who are now carrying things with such a high hand and who pretend to represent the true sentiment of the people of that unfortunate county. From the facts developed and statements from all sources in regard to the killing it would be strange if even a community of savages could honestly sanction such a terrible murder; and when the pressure ceases, and the true sentiment of the people finds expression, it will be found that a large majority of the citizens of Covich are utterly opposed to the killing and to the resolutions of the Hazlehurst mass meeting. The writer of the communication is a Democrat, and opposed to the Matthews party in the recent election. * * **

Of course our people do not want and will not submit to a rule of ignorance and corruption, *but this can be averted without committing such a terrible murder as was that of Matthews, and without passing such foolish and intolerant resolutions as those of the Hazlehurst mass meeting."*

GEORGE S. DODDS

was sworn and testified, in part, pages 484 to 502, as follows:

Am a lawyer and a merchant, live at Hazlehurst [this witness was one of the lawyers for the defense]. *The voters of the town had nothing to do with the election of Wheeler as Marshal and were strongly opposed to it.* Three of the councilmen were for him and two were against him. I went up to the meeting (Wednesday). It had been organized and this young man Bailey who has been spoken of here was addressing the meeting. The crowd seemed to be excited and the attempt on the part of Major Barry, whose idea was just as mine was, and whose objection to the resolution was the same as mine, having been hissed down, I withdrew from the meeting and left them there, and I was not there when the resolutions were voted upon at all. [This scene of disorder and excitement lead by "Captain" Joe was somewhat similar to that presented by the Thirtieth Legislature of Texas, Feb. 27, 1907, when "Captain" Joe made his vitriolic

address on the night of his final dishonor, sometimes said to have been the night of his "exoneration."] On Monday I went to the crowd and spoke to some of their leading spirits and asked them not to go to Mr. Matthews' house and disturb his daughter. I could name quite a number of men: Jess Thompson, Jr., Emmett Spencer, the Messrs. Higdon, some of the Middleton family, and some young Baileys, I think Mr. West was there. [Perhaps "Captain" Joe had enlisted some of his relatives in this war for pie, place and power, which he has since, throughout his whole life, prosecuted so vigorously.]

ANTIDOTES FOR BAILEYISM.

Who knows himself a braggart, let him fear this; for it will come to pass that every braggart shall be found an ass.—*Shakespeare.*

Men of real merit, whose noble and glorious deeds we are ready to acknowledge are not yet to be endured when they vaunt their own actions.—*Aeschines.*

Usually the greatest boasters are the smallest workers. The deep rivers pay a larger tribute to the sea than shallow brooks, and yet empty themselves with less noise.—*W. Secker.*

The man or the politician who cannot listen, dispassionately and profitably listen to criticisms from his fellow men without a flood of anger and revenge filling his heart with bitterness and hate, must be very wicked (guilty), or very weak; *perhaps both.*—*The Author.*

With all his tumid boasts, he's like the sword-fish, who only wears his weapon in his mouth.—*Madden.*

Conceit, more rich in matter than in words, brags of his substance; they are but beggars who can count their worth.—*Shakespeare.*

Self-laudation abounds among the unpolished, but nothing can stamp a man more sharply as ill-bred.—*Charles Buxton.*

Whom the gods would destroy, they first make mad.—*Anon.*

The empty vessel makes the greatest sound.—*Shakespeare.*

Fools rush in where angels fear to tread.—*Pope.*

Borrowing is not much better than begging.—*Lessing.*

Spite and spleen, hate and revenge are brutish; they mark not the conduct of just and thinking men.—*The Author.*

If you would know the value of money, go and try to borrow some. He that goes a-borrowing goes a-sorrowing.—*Franklin.*

Neither a borrower, nor a lender be; for loan oft loses both itself and friend; and borrowing dulls the edge of husbandry.—*Shakespeare.*

Getting into debt, is getting into a tanglesome net.—*Franklin.*

Pride goeth before destruction and a haughty spirit before a fall.—*The Scriptures.*

Some one praising a man for his foolhardy bravery, Cato, the elder, said, "There is a wide difference between true courage and a mere contempt of life."—*Plutarch*.

At the bottom of not a little of the bravery that appears in the world, there lurks a miserable cowardice. Men will face powder and steel because they have not the courage to face public opinion.—*E. H. Chapin*.

Words are like leaves, and where they most abound, much fruit of sense beneath is rarely found.—*Pope*.

To only such men as can rise above the trite and transitory incidents and blinding objects of personal hate, selfish egotism, and false pride, is revealed the upper atmosphere of pure reason, holy thought, comprehensive vision, and helpful meditation.—*The Author*.

The universe is not rich enough to buy the vote of an honest man.—*Gregory*.

Though authority be a stubborn bear, yet he is oft led by the nose with gold.—*Shakespeare*.

A man who is furnished with arguments from the mint, will convince his antagonist much sooner than one who draws them from reason and philosophy. Gold is a wonderful clearer of the understanding; it dissipates every doubt and scruple in an instant; accommodates itself to the meanest capacities; silences the loud and clamorous, and cringes over the most obstinate and inflexible. Philip of Macedon was a man of most invincible reason this way. He refuted by it all the wisdom of Athens; confounded their statesmen; struck their orators dumb; and at length argues them out of all their liberties.—*Addison*.

When a man is a brute, he is the most sensual and loathsome of all brutes.—*Hawthorne*.

CHAPTER VII.

BAILEY'S EARLY EXPERIENCES IN TEXAS—POLITICAL AND OTHERWISE.

Prior to the disgraceful occurrences and lawless conduct described in the preceding pages, during the summer of 1883, Mr. Bailey stood for the Democratic nomination to the Mississippi legislature before the nominating convention of the Democratic party of Copiah County. In this aspiration he was defeated, but about this he has been careful never to speak, so far as the author is informed, although he has never missed an opportunity to boast of his selection as Democratic elector in the year 1884.

During the year 1884 the most radical machine politicians and newspapers were ready to put forward a man like Bailey. "At that period too," writes a gentleman thoroughly conversant with the contemporaneous political history of Mississippi, "it may be said in all truth that Mississippi had the most formidable and unscrupulous Democratic party machine and press of any period within my recollection." Bailey was ready and anxious for political preferment, both then and now regardless of the means; Meade and his click, who were more or less implicated in the riots, were ready to force a man like Bailey on the party and thus was an extreme partisan spirit employed to white-wash the past, carry him through and thus cover up the unsavory record he and others had made in the Copiah County campaign without causing an immediate party revolt.

"But it is more than likely that Joe would not have secured the nomination as an elector even under these circumstances," writes the same Democratic authority, "but for the fact that the position of elector was purely an honorary one. At that time, too, it was necessary for the nominee to make quite an expensive campaign at his own expense and Bailey was supplied liberally at that period with money from his rich uncle, who had not yet tired of his extravagance and methods.

"Again, Bailey was the only aspirant for the nomination in this district, and it is not surprising that he should have received the nomination for which there was no other candidate."

The nomination of Bailey was stoutly opposed by the Vicksburg Post and the Leader as well as by other Democratic papers, but there being no other person seeking the place, Joe landed the nomination when the District convention met, and, of course, the nomination was then, as now, equivalent to an election.

IT WAS DIFFERENT THE NEXT YEAR 1885.

Most of the individuals who participated actively with "Captain" Joe in the Covich County tragedies of 1883 are now dead. All the immediate family of J. P. Matthews except a son and daughter are deceased.

Joe L. Meade and Joe Purser sought new pastures by moving to Birmingham, Alabama, soon after the Senatorial investigation. A few years after the assassination of Mr. Matthews, Ras. Wheeler emigrated from Mississippi and died somewhere in Southern Texas, away from home and friends, a vagabond on the earth as was Cain of old. This was he of whom Joe said in a public address, "My friend Wheeler is a noble electioneerer."

Ex-Sheriff Hargrave, who seems to have been nothing more than potters' clay in the hands of Meade, Bailey, Wheeler & Co., died the early part of year 1907.

It is interesting to note that in the early part of 1885, after Cleveland was inaugurated, J. L. Meade, who figured as Democratic County Chairman, and who at least winked at Joe's lawlessness and bulldozing propensities, was appointed Post-master at Hazlehurst by Mr. Cleveland on the recommendation of the Democratic Congressman Barksdale. But as soon as President Cleveland learned, which he did shortly after the appointment, who Meade really was and the part he had borne, though somewhat in disguise, in the Covich county outrages, *the President promptly revoked Meade's appointment and gave the position to J. W. McMaster.*

This, of course, was a great rebuke to Meade and his crowd of bulldozers from a Democratic president. He became very indignant, just as "Captain" Joe has become on many occasions since, and attempted to secure a vindication and in turn rebuke President Cleveland by becoming a candidate for representative from Covich County before the County Democratic Convention of that year (1885). *He was signally defeated, however, and left the state.*

This was likewise a severe rebuke to "Captain" Joe from President Cleveland and perhaps this is one of the reasons that Congressman Bailey afterwards found it very irksome and unpleasant to serve as a congressman from Texas during the second Cleveland administration. The refusal of Covich County Democracy to endorse Meade for the Legislature after he had been ousted by Cleveland was likewise "a reflection on Bailey."

Dr. A. B. Pitts, who figured as a witness before the Senatorial Investigating Committee in New Orleans in 1884, now states to the author's correspondent that, *"the fact of the conspiracy to assassinate Matthews if he attempted to vote on election day, was fully established by a detailed confession of the affair voluntarily made to him a few days afterwards by E. B. or Ras. Wheeler, the assassin, who said he had been selected 'by lot' to commit the diabolical deed."* Dr. Pitts is still one of the leading physicians of Hazlehurst, Miss., and one of the most reliable men in Covich County.

BAILEY MIGRATES TO TEXAS, IN THE YEAR 1885.

Bailey, having failed to acquire a law practice at Hazlehurst, and having failed also to acquire political influence of saleable volume or quality, his star of empire westward led, and about the month of June, 1885, he pitched his tent on the broad prairies of North Texas, locating in Gainesville, Cook County. From that time forward he seems, by hook or crook, to have found political pastures green in which to forage and grow fat financially and otherwise.

It seems to have been a serious misfortune to Mr. Bailey that he has never, since his early youth, been in a position, or under the necessity, of developing financial self-reliance along normal and legitimate lines. No sooner had he come "West to grow up with the country," than an arrangement was effected with his supposed benefactor, the elder Weldon, a Pennsylvania bachelor, by which the latter sent him for investment about the sum of \$100,000.00, including \$10,000.00 belonging to Miss Mary Bailey, a sister of Bailey's father, who resided with the elder Weldon.

The following excerpt is from a signed letter in the possession of the author from one of the most reliable Attorneys in Mr. Bailey's home city: "William Weldon had an estate of the value of about \$100,000.00 consisting principally of interest-bearing securities. His niece, Miss Mary Bailey, had an estate of about \$10,000.00, consisting of like securities. This uncle, William Weldon, educated J. W. Bailey. When Bailey came to Gainesville, his uncle and aunt sold the securities in which their property was invested and sent the money to J. W. Bailey to be invested in real estate in Gainesville and Cook County. The uncle executed to J. W. Bailey a power of attorney authorizing him to buy, sell and encumber land in the name of the uncle. *Bailey mismanaged and wasted the property entrusted to his care.* When the uncle investigated the matter about 1890, *he found that he owned nothing free of encumbrance.* He died about 1891, leaving a will in which he devised his entire estate to his niece, Miss Mary Bailey. Out of the entire property, her own as well as that of her uncle, entrusted to the care of J. W. Bailey, she received nothing except a farm of about 1,000 acres west of Gainesville which cost about \$10,000.00 or \$12,000.00, and which was encumbered at the time it was turned over to her for as much as it cost. Practically, she received nothing from the \$100,000.00 worth of property which was entrusted to J. W. Bailey. *Bailey claimed that he had lost the money.* It is probably true that he lost the most of it. It was afterwards developed, however, that *during all of this time, he had horses and interests in Kentucky, and quite a number of people suspicioned that some of the money entrusted to him by his uncle and aunt was invested in Kentucky and not accounted for.*"

These things being true, is it any wonder that the people of Texas should have likewise since been betrayed by a man of such habits, such training and such ideals?

On one occasion after Bailey had wasted the substance of his benefactor in riotous living, never having earned any honest money to speak of by his own labor, a judgment against him in Texas was re-established in Kentucky and an execution sought to be levied upon his race horses there. Then it was that the late Colonel Jot Gunter made claim to the horses as his property and thus were the decrees of the courts of two States held as of naught. Long-time citizens of North Texas, familiar with the circumstances, say that Colonel Gunter frequently complained at Bailey's indebtedness to him and occasionally denounced him most bitterly. But after Francis and Pierce and Kirby and Harriman and Standard Oil became his bankers, he probably made good to Colonel Gunter and thus asserted his claim for support against the latter.

A banker who claimed to be cognizant of the facts, once told the author that at the time Bailey first offered for congress his credit in Gainesville had ebbed so low as to render him unable to purchase so much as a beefsteak on credit.

It is quite generally believed, by those familiar with his early career in Texas, that a few well to do cattle-men having head-quarters at Gainesville, but owning large stock interests in Oklahoma and the Indian Territory, took up Bailey's political aspirations, paid off some \$10,000.00 or \$15,000.00 worth of his debts, and thus enabled him to stand for Congress. They needed a special pleader before the Interior Department at Washington *in the matter of their Indian Territory land leases*. This phase of his career, however, and the testimony, bearing thereon, will be considered under the chapter entitled, "Supplemental Charges Stated and Discussed."

BAILEY, AS A PATRON SAINT OF THE MINISTRY, AND A LOCAL OPTIONIST PRETENDER.

It seems that Bailey began to "hanker" after the political flesh-pots with an Egyptian longing even before the funds supplied him as a trustee had been expended in devious ways. He began to go to political conventions and to exercise his "gift of gab" as early as 1887 when he made prohibition speeches in Cook County during that year. In this connection, it is quite interesting to note the following language from a recent letter to the author by a Mississippian who knew him well and intimately during his residence at Hazlehurst as a young lawyer: "In regard to Mr. J. Weldon Bailey's record while in Mississippi, it was anything but reputable."

In the recent Local Option campaign in Cook County whereby that county was carried by the antis, it is said that Mr. Bailey was importuned to assist the local optionists by making some speeches in behalf of their cause. This, it is said, he refused to do. Whether or not Dr. Rankin of Dallas will now excommunicate "Joe" for his alleged lack of loyalty, remains to be seen. Suffice it to say that Dr. Rankin, a specialist as a political theologian or a theological poli-

tician, is quoted as having said last winter, that "unless it could be shown that Mr. Bailey had violated some *criminal statute*, he, Rankin, would continue to support him." Let us ask: Is it possible that our Christian ministers have fallen so low in their ethical ideals, conceptions and teachings as to subscribe to the proposition that every unjailed rascal is a fit subject for the United States Senate? If so, such conclusion must be based upon the old theory that what is, is right—especially so it is believed, if such unconvicted renegade poses as a so-called prohibitionist.

Mr. Bailey has frequently boasted that 98 per cent of the ministers of Texas are for him. If so, may the Lord have compassion on the ministers! While there are doubtless some ministers still blinded by the cheap trappings and glossy gildings of this now celebrated charlatan, the author has yet to meet in his travels a single minister so deluded. Here is an estimate of Mr. Bailey recently made to a minister by a fellow clergyman now resident in the town of Gainesville: "I cannot understand why the people of Texas have been so thoroughly hoodwinked by this fellow Bailey. *He is cheap and coarse and shallow and bitter and mean.*" What more could a minister say concerning a man without violating the proprieties of ministerial decorum and address!

Mr. Bailey has also characteristically boasted that, "All good women are for me." Are Texans to infer, as they must infer, that this cajoler insults their gallantry by inferentially asserting that "all women who are against me are bad women?" Such effrontery, balderdash and insulting suggestions are well calculated to put this mountebank beyond the circle of respectability. Indeed the truth is, that he has never in the opinion of multiplied thousands of gallant and decent Texans, occupied a place within the circle of respectability. "He that exalteth himself shall be abased, but he who humbleth himself shall be exalted."

POLITICAL REMINISCENCES DURING HIS EARLY CONGRESSIONAL CAREER.

Having taken his seat in 1891, Bailey attracted some notoriety, for which he always craves, by refusing to don the conventional dress attire proper on a certain occasion. This posing and strutting has been very characteristic of the man, varied from time to time according to the circumstances, and gauged by his changed and changing attitudes and relationships from time to time.

For example: Note the fact that in his early congressional service (or should we say lack of honest service), he played to the galleries by pretending that he desired that the Sergeant at Arms dock his salary on account of his having lost a day or so from his congressional duties by reason of having gone over into one of the Virginias to make an address. - If he was sincere in that holier than thou attitude, why do you suppose he drew his full salary during the session of congress in the year 1903 while he spent the greater part of the winter at the Waldorf-Astoria, and possibly at 26 Broadway (Stand-

ard Oil Office) New York? The congressional record shows that from the middle of January, 1903 to the last days of February of that year, his name was not recorded in a single aye and no vote taken in the senate. During this time he was earning (?) his \$225,000.00 from Kirby and the Railroad interests. He had grown rich, and according to his earlier pretensions he should not have charged the U. S. Treasury with the payment of his salary during those absences.

Again, Oily Joe attended the last session of congress beginning in the early days of December and closing on the 4th of March, 1907, only the very last day of that session—Sunday. Now, the author has tried to get the Secretary of the Senate to furnish him a list of governmental disbursements to the Senators during that period, but it seems that a citizen of this country is not entitled to know about governmental expenditures in such matters until those expenditures have been first presented to "the treason of the senate." It has been suggested by a gentleman frequently in Washington that one of the reasons Joe was so anxious to conclude the suppression at Austin in February, 1907, was that he might hurry to Washington before the Congress actually adjourned in order to collect his salary and \$700.00 mileage—a thing he could not have done, it is stated, except he attended the Congress while it was yet in session. It was sufficient, perhaps, for the purposes mentioned, that he should have been present, with his consoling presence, and his vessel of oil (Standard Oil, if you please,) at the final ceremonies and distressing demise of that august assemblage where Platt, Depew, Aldrich (Oil-Rich) and Boss Bailey, of Texas, sing their last sad requiems over the parting shadows of the House of Graft. It has been facetiously said that if Texas was tired of Bailey, New York, would like to barter her two senators for our one. Pray, would not New York do well to exchange two grafters for one? Upon reflection: *Not if that one could outgraft the other two.*

BAILEY QUILTS THE LAW FOR POLITICS.

Having utterly failed in his supposed efforts at building up a law practice, which efforts seem to have in fact been directed towards the early and complete dissipation of the trust funds belonging to his benefactors, Bailey proceeded to dispose of his law library from time to time. As to whether or not his abandonment of the law, if he ever in fact was entitled to the distinction of having practiced law, took place about a year before this "Standard" importation essayed to sail the political seas of Texas, there is some doubt. On this point, however, the following statement from a Gainesville authority is of interest: "In reference to Bailey selling his law library, I will say that he was completely frazzled out as a lawyer before his election to Congress. He sold his law library and office furniture about the time he ran for Congress, but I could not say whether just before or just after. I am inclined to think that he had been selling his law books for at least a year before he ran for congress." Digitized by Google

At any rate, this political free-booter unfurled his flag of political and commercial piracy to the breezes in 1890 and ever after has he been a pirate captain upon seas now known on the map of the political world as cesspools of graft and greed. His reign in the South until recently, has been as undisputed as his piratical expeditions have been bountiful of booty. No southern statesman has dared during all these years to question his hitherto undoubted and universally acknowledged supremacy. His conquest has been brilliant and the returns from the ocean of oil abundant indeed. Earth and sea and sky have done him homage, and his coffers filled with tribute plentiful.

A pity 'tis, 'tis true that, in the very zenith of his fame, when fortune was smiling and her choicest favors flowing, a few of his disgruntled subjects made bold to reproach this august man, for to their doom of death and silence were they by his decree o'erwhelmed. "Why, man this fellow doth bestride the narrow world like a Colossus, and we petty men must walk about under his legs or peep about to find ourselves in graves, face downward."

BAILEY'S JEALOUSLY OF BRYAN.

WASHINGTON, July 14, (Galveston News, July 15), 1896.

"In answer to numerous letters and telegrams from his constituents, as to his acceptance or declination of a renomination of him for Congress which had been tendered by a primary theretofore held, June 6, 1896, Mr. Bailey issued the following address:

"To the Democrats of the Fifth Congressional District of Texas: The National Convention of our party which recently assembled in Chicago, has nominated as our candidate for the presidency a gentleman with whom *I* disagree so widely in respect to certain fundamental principles of this government that if he should be chosen President, and I should be returned to Congress, my frequent and serious disagreements with the administration would be inevitable. For the past three years I have been compelled by my sense of duty to antagonize the present administration on some important questions [Cleveland's Democratic Administration remember, please], and having learned the bitterness of such a struggle, I am unwilling to place myself in a position where it is certain that a sense of duty no less imperative will compel me to antagonize the next administration on important questions. I have, therefore, determined to decline the nomination. * * *

How does the above compare with his recent tirades against those who bowed not down while he applied the party lash? True it is that Mr. Bailey said further on in his address that he would support Bryan privately and sought to explain this inconsistency on his part by considerations of party regularity and also, and chiefly, on the ground that Bryan was preferable to McKinley regardless of party affiliations.

Mr. Bailey's objection to Mr. Bryan, whom he opposed at Chicago, did not go to Mr. Bryan's honesty and integrity, but only to his ideas of government. The late objections to Mr. Bailey, in spite of his so-called nomination, went to his honesty and integrity. Which question is the more vital, and which, if either, would justify opposition to a party nominee?

In an article to the Galveston News of July 17, 1896, under a Fort Worth date line, is found the following comments on Mr. Bailey's declination to stand for Congress: "There are some here and there, however, who entertain the opinion that it is a case of desired solicitation at the hands of his constituents, that his popularity may be used in connection with his Senatorial race. Those who think this way, say that the young Congressman is following in the footsteps of Congressman John Allen of Mississippi some years ago when he declared that he would not accept the proffered honor at the hands of his party, and who, after being nominated, was the victim of the following rhyme:

" 'John Allen said he wouldn't,
The people said he would;
All right, said John the funny,
On my running bet your money.' "

This comment by his near neighbors clearly indicates the thought on their part that this would-be-Cesar was "putting aside" the proffered congressional attire that he might be later robed in the Senatorial toga.

In opposing Mr. Bryan for temporary chairman at the Chicago convention in July, 1896, Bailey referred to the distinguished Nebraskan Democrat as "A populist maverick."

The following estimate of Mr. Bailey by D. W. Odell, who has since acted as such a partisan of Mr. Bailey, and who, after representing the latter before the suppression committee of 1907, became employed in the Waters Pierce Oil Company litigation at Austin, having conferred with Bailey and Pierce at the Waldorf-Astoria in New York shortly after Bailey's so-called exoneration and before the trial at Austin in May, 1907, is very interesting. It indicates Odell's estimate of Bailey at that time. He was evidently unbiased then and spoke the truth with discernment. Mr. Odell's expressions follow:

"ODELL WAS SHOCKED."

DALLAS, TEXAS, July 18, 1896.

"Hon D. W. Odell of Cleburne, [the same Odell that shielded Bailey before the late Suppression Committee], late district delegate to the Chicago Convention, was in the city last night. He said to the News reporter: 'I never was more surprised than when I read the declination of Congressman J. W. Bailey to make the race for Congress in his district again. Just before leaving

Chicago I had a long talk with Mr. Bailey on the question he outlines in his letter to the News. He told me then that he differed with Mr. Bryan on fundamental principles of government; that he had found such differences to be unpleasant by experience with the present administration, etc. He talked then of refusing to run for Congress for these reasons. *The more he tried to explain, the more confused I became at the real cause of his actions, and the more impressed at what seemed a lack of sincerity.* I got a half a promise from him, or thought I had, that he would take no decisive step until he had returned home and consulted with his friends. For this reason, if for no other, I was surprised to read what he had concluded to do. *It seemed to be the general impression at Chicago that feelings of pique or of jealousy, raged in Mr. Bailey's breast.* I do not know that this is true, *but his course is very mystifying.*" (Galveston News, July 18, 1896.)

"Great guns!" What treason this to the unmatched and matchless gladiator, and that too, from such a source! Our Caesar was evidently pining for the "crown of thorns and cross of gold" so recently bestowed on another.

OTHER COMMENT ON BAILEY'S POUTING.

E. L. Woods: Said he was in Washington when Bailey made his maiden speech which attracted much attention. Then Bryan came and "completely eclipsed Bailey's effort and the latter is sore in consequence. The only grievance he has against Bryan is of a purely personal nature. * * * If he has withdrawn, as reported, from his race for Congress from his district, it is only to be able to strengthen himself for the race to fill old Roger Q. Mill's seat in the Senate. No, Bailey is not going to forsake public life nor release his grip upon the public 'pap.'"

M. A. Posten: "Bailey is *slick* and there is likely to be method in his madness."

E. M. Reardon: "His story is very weak. There is nothing in it."

H. G. Robertson: "Bailey has made a donkey out of himself."

Judge C. M. Tucker: "Jealousy of Bryan. * * * He should be consistent, however, and if Bryan, in his opinion, is an unsafe man, decline to support him."

All from Galveston News, July 18, 1896.

GAINESVILLE, TEXAS, July 18, 1896.

MR. BAILEY RETURNS HOME, AND IS PRESSED INTO MAKING A SPEECH CONCERNING HIS DECLINATION WHICH WAS CONCLUDED IN THESE WORDS:

"I would not be truthful if I said that I would not accept this nomination if the Convention shall see fit to tender it to me." And thus was concluded his brief retirement from public life, lasting from July 14 to July 18, 1896. Thus suddenly came to grief the lately be-

stirred congressional aspirations of a dozen or more candidates, that had come forth in those few short days, ready to take his place.

What a pity that he did not then in fact retire forever from the public service which he has since covered with shame and disgrace to Texas.

BAILEY STILL OPPOSED TO BRYAN IN 1908.

THE ABSENT GUEST—SENATOR BAILEY FAILED TO SHOW UP AT BRYAN DINNER.

By Associated Press.

Washington, Jan. 28, 1908.—Senator Newlands of Nevada gave a dinner last night in honor of William J. Bryan, who is a guest of the Senator at Woodely, his country residence. Those invited to the dinner were one-half of the democratic members of the Senate according to the alphabetical arrangement of names in the congressional directory.

Senator Newlands has arranged for a similar dinner this evening when the other half of the democratic senators will be invited.

The invited guests last night were William J. Bryan, Senators Bacon, Bailey, Bankhead, Clarke, Clay, Culberson, Daniel, Jefferson Davis, Foster, Frazier, Johnson, Latimer and McCreary.

Senator Bailey of Texas was not present.

BAILEY ALWAYS AGAINST BRYAN.

On this very day, February 15, 1908, the Democratic primaries throughout Oklahoma instructed their forthcoming delegates to the National Convention to support William J. Bryan for the Democratic presidential nomination. This was unanimous. Attention is called to Mr. Bailey's long opposition to Mr. Bryan and to the fact that he dramatically left the audience when Bryan was speaking in New York after his return from his world-tour. It is interesting to recall in this connection also that John H. Kirby in an interview in St. Louis in the fall of 1907 remarked that he would support a Republican for president in preference to William J. Bryan, should the latter be nominated by the Democrats.

BRYANISM VS. BAILEYISM.

All this is not surprising. Bryanism means equality of opportunity in the economic as well as in the political world; Baileyism means private ownership not only of private property, but of public utilities and monopolies that public men may graft, graft, graft, and a plutocracy of wealth be builded up, while the masses sink lower and lower in the scale of economic existence. Bryanism endorses that old injunction "Thou shalt not steal;" Baileyism proclaims that public offices shall be prostituted to private graft, in the name and under the guise of Democracy. Bryanism stands as a great moral force; Baileyism means corruption. Bryanism teaches that they who would

be rich fall into temptation; Baileyism "despises those public men who think it necessary to remain poor in order to be considered honest." Bryanism proclaims that corrupt wealth is a disgrace to its possessor; Baileyism declares that the cry of the poor and needy, the helpless and the oppressed, should go unheeded. Bryanism stands for honesty in public and private transactions; Baileyism stands for dishonesty and corruption from the lowest to the highest. Bryanism reiterates that the love of money is the root of all evil; Baileyism stands for lust of gold and greed of power. Bryanism inculcates the doctrine that love of country and fair dealing with our fellow men is the patriot's first duty and highest reward; Baileyism advocates selfishness, self-love, self-praise and self-seeking as the chief objects of existence. Bryanism extolls manhood; Baileyism worships mammon. Bryanism means patriotism; Baileyism spells traitorism.

BAILEY AFRAID OF THE PEOPLE.

Is it any wonder then that the so-called Democratic Executive Committee of Texas, packed as it has been for the last two years with Bailey partisans, should, on this self same day, February 15, 1908, while Oklahoma was instructing for Bryan, have refused to give the Democracy of Texas an opportunity to vote by primary election upon Bailey's candidacy for delegate at large from Texas to the forthcoming Denver Convention? If Bailey and his partisans are not afraid of the people why are they not willing to trust the people?

The National Democratic Convention at Kansas City, the first days of July, 1900, promulgated a Democratic platform in which is to be found the following plank:

"We pledge the Democratic party to an unceasing warfare in nation, State and City against private monopoly in every form. Existing laws against trusts must be enforced and more stringent ones must be enacted."

At that very time Senator Bailey was in league with the Oil Masters, having already received \$4,800 (\$3,300 April 25th and \$1,500 June 13, 1900) from H. Clay Pierce and now he asks not the people of Texas, but the politicians, to elect him as a delegate to the Denver Convention in 1908. Verily the state to which Bailey would bring the Democratic party is inconsistent indeed.

BRYAN ON POLITICAL ETHICS.

The following sentiments from William J. Bryan are in marked contrast to the principles and practices of J. W. Bailey: "If one is willing to become a grafter he can make money out of politics. Every Senator can become rich if he will only sell his soul. The first lesson for the official to learn is that no man can serve two masters. A man is lacking in either intelligence or honesty, or both, who defends the acceptance of employment from those whose interests which are adverse to the interests of the public.

"The time is ripe for a consideration of ethical questions. There is a moral awakening throughout the land and people are learning that there is something more important than the making of money. Business men, instead of chasing the almighty dollar until they fall exhausted into the grave, are going to set a limit to their accumulations, and, having secured enough to supply their needs, give to society the benefit of their business ability and experience. This moral wave will not expend itself until dishonesty has been driven from business, corruption from politics and injustice from government."

Bailey's opposition to Mr. Bryan dates from Bryan's first appearance in Congress, in the early nineties, and seems to have had its origin in Bailey's jealousy of Mr. Bryan's superior oratorical ability, qualities of leadership, and popularity. Bailey has not only persistently opposed Mr. Bryan since the Chicago Convention of 1896, but opposed Mr. Bryan's selection as the temporary Chairman of that Assembly and afterwards referred to this splendid Statesman and far-sighted patriot as "The Populist Maverick of the West."

CHAPTER VIII.

BAILEY, THE BELLIGERENT.

Throughout his entire life, beginning with his early role as a bar-room bully, J. Edward (alias Weldon) Bailey has displayed the despicable characteristics of the boss, the braggart and the blackguard. So overweening has been and now is the vanity and vainglory of this egomaniac as to cause him apparently to lose all self poise and balance. When argument has failed him, he has invariably resorted to that last argument of the guilty, personal abuse and vituperation.

At times in his life he has even descended to the low level of the bestial by the exercise, or cheap display, of brute force—always, however, under circumstances that insured his own complete immunity from harm. Note his remark to one of the witnesses of the Mississippi bulldozing campaign when "Captain" Joe said: "*We propose to have these offices if we have to kill out all the Independents to get them.*"

BAILEY'S BRILLIANT ASSAULT ON A HELPLESS PARALYTIC.

In this connection it is quite interesting to note the following scathing letter from Hon. W. O. Davis, a highly respected attorney and long time resident of Gainesville, Texas, addressed to Mr. Bailey through the public press. Mr. Davis had been on the witness stand before the suppression committee of 1907 a few days before, and when Bailey took the stand to make his three days' stump speech, as might have been expected of him, he made a bitter thrust at Mr. Davis, and referred to the latter as having, while on the witness stand, "hung his head like a dog." Mr. Davis' reply to this unkind remark was as follows:

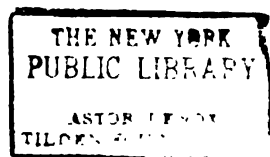
"Hon. Joseph W. Bailey,

"Gainesville, Texas. Feb. 23, 1907.

"DEAR SENATOR:—I notice from the *News* that in your harangue before the investigation committee you say that I hung my head like a dog. I plead guilty to not carrying a high head. I have never considered a high head becoming to me. I have not owned race horses in partnership with Gates, Francis or Sibley. I have no rooms at the Waldorf-Astoria; no credit with Pierce, Yoakum or Kirby. My name is not upon the books of the oil companies or written in their secret code. I had no rich uncle or aunt, and did not lose their property intrusted to me for investment. My achievements, unlike yours, have been humble, and I am justified in carrying nothing but a lowly head. A high head does not always indicate an honest heart or a clear conscience. Macaulay says that Titus Oates carried the highest head



HON. CHAS. H. JENKINS
BROWNWOOD, TEXAS.



in all England. He steadfastly gazed into the faces of the court, jurors and bystanders, and cried, "Persecution." Had he been allowed to select his jury, he would, no doubt, have escaped the pillory. I appeal to history, not to compare you with Titus Oates, but to show that too much reliance should not be placed in a high head or a brazen face. I am not insulted at your saying that I look like a dog. The dog is a faithful animal, and has never been known to run with the wolves when detailed to guard the sheep. You have never been called a watch dog. I do not write to discuss this, but to call your attention to some grave errors in your harangue.

"You said that Mr. Green, after you had sold him the mortgaged land, bought it under the mortgage for much less than its value, and then sued you on your warranty. Now, Mr. Green did not buy the land under the mortgage, and had no interest in it after the sale. He lost all he paid you on the land. This is not the only error I find. You paid a glowing tribute to the memory of Judge Barrett, and said that he wrote your vindication into the judgment, and in effect rebuked Green for alleging misrepresentation. You know, or should know, that Judge Barrett did not write, read or see that judgment. I wrote the judgment at the request of your attorneys. No proof was made before Judge Barrett. Now, why do you pose before the committee and seek to create the impression that the judge heard the evidence; that Green broke down in his proof, and that Judge Barrett wrote with his own hand your vindication? There is another thing I will call your attention to while upon the subject. In the summer or fall of 1894 Mr. Green showed me a telegram which he had just received from you, asking him to wire that the judgment had been paid. The telegram was sent by you from Whitesboro to Mr. Green at Fort Worth. I understand you carried a high head at Whitesboro, denounced your opponent, Parson Browder, as a slanderer, and asserted you had paid this judgment in full. If you did so, you told that which was not true, asked a citizen to corroborate you, and denounced a preacher as a slanderer who had told the truth.

"When I think of you as my senator I have cause, aside from my humble achievements, for carrying a low head. You pay a tribute to the memory of J. W. Phillips, and say that in his lifetime I would not have dared accuse you of drawing on him for part of his compensation as clerk. I have never professed much courage, moral or physical. I have lived in Texas for more than 35 years, and have never whipped any one, not even a child. You have been here for more than 20 years, and have never whipped any one *except a paralytic on crutches*. * * * You will see that my record for courage is at least as good as yours, and that neither has enough to justify boasting.

"While living is as cheap as it is in the Indian Territory, no one ought to be allowed to make as much as twenty-five thousand dollars per annum for clerical work. [As Bailey while on the Judiciary

Committee arranged for J. W. Phillips to do.] All above a reasonable compensation should go to the government. Excessive compensation gives rise to jobbery. * * * In your harangue you took occasion to abuse all who dared criticise you. Do you know that a fight is on between the people and the trusts? Are you not aware that there is a belief among the people that the trusts control some powerful United States Senators, and, through them, the government? Are you so puffed up as to believe that the people will not dare criticise a senator who has run with the crowd that you run with, and who obtains his wealth from the sources you obtain yours? My only surprise is that any one should attempt to defend you. If I am not controlled by prejudice—and I try not to be—some of the good people of Texas are as clearly deluded as the followers of Joseph Smith and Alexander Dowie. You say that your name and the name of Texas are inseparably connected, and to criticise you is to criticise Texas. You say you have made Texas famous. If you should die and the history of Texas should be written to date, what have you done that would be recorded? You secured the readmission of the Waters Pierce Oil Company. You imposed upon the attorney-general the false doctrine that a corporation could by a colorable dissolution and reorganization avoid a judgment. What else have you done except blow your horn and carry a high head? You conclude your harangue by threatening to appeal to a shotgun in order to silence your critics. It is a bad cause that appeals to the shotgun. The shotgun may silence, but it will never convince. You did not run with Pierce, Gates and the oil trust before your election to the senate. *It is your political pull and influence they are after.* If you were a private citizen you would not be worth a dollar to them. You are, or should be, a servant of the people. They have a right to know your associations and your connections with trust influences. When they seek to know, you threaten with a shotgun. Unterrified by threats, I contend that Texas has no need of a political boss such as you endeavor to be. The people are tired of your abuse. They are tired of your fulsome praise of yourself, and of your intemperate abuse of your critics. They would like to have a senator who does not miss connections at St. Louis, have rooms at the Waldorf-Astoria, hang around No. 26 Broadway, and borrow money from millionaires who are not in the money lending business. They are reaching the conclusion that fast horses, confidential trust relations and statesmanship do not go well together."

BAILEY THREATENS TO BRAVELY CUT THE THROAT OF PARSON BROWDER.

During the campaign for congress in the old Fifth District in the fall of 1894, Reverend U. M. Browder actually had the temerity to offer as a candidate for congress against his Royal Highness, since familiarly known in Standard Oil parlance as "Senator Republish," and in other circles as "Coal Oil Joe." Just why the Reverend Mr. Browder should have been so presumptuous as to undertake to exercise

his constitutional right to seek an office at the hands of his countrymen, to which Joe was entitled by virtue of "The divine right of kings," is one of the inscrutable mysteries that have surrounded this unapproachable Colossus, sometimes styled "the greatest living Democrat."

Observe with scrutiny the following contemporaneous history of those memorable times:

"SHERMAN, TEXAS, Oct. 1, 1894.

"Since Bailey's return from Washington, the campaign has been quite warm and the joint debates between the two candidates [Bully Bailey and Parson Browder] at times reached the danger line and trouble was expected. Personalities of the bitterest nature have been freely indulged in until Saturday night at Denison a passage at arms was barely averted. * * * The explanation issued by the populists is that *on account of threats of serious bodily harm* made against [Browder] by Bailey in Denison, *it was best to end the joint debates and let each man canvass on his own hook.*"—Galveston News, October 2, 1894.

DENTON, TEXAS, Oct. 2, 1894.

"Rev. U. M. Browder spoke here tonight. * * * He explained the reason of his being alone; *stated that Mr. Bailey had rushed at him with a knife and threatened to cut his throat at Denison.*"—Fort Worth Gazette, Oct. 3, 1894.

DENISON, TEXAS, Oct. 6, 1894.

"Congressman J. W. Bailey was asked about the assassination story which was sprung in Sherman. Mr. Bailey emphatically stated he would not be interviewed for a Denison paper [where the knife and throat cutting incident occurred]. 'You may say that or nothing,' said the irate Congressman."—Fort Worth Gazette, Oct. 7, 1894.

And thus did the great and promising statesman from Texas, in the might of his matchless manipulations, clear the field of all competitors and proudly strut forth from year to year as the unconquerable hero of many hard fought battles.

So great indeed was the intrepidity of this valorous knight as to cause his lordship to valiantly attack on the floor of the senate, some years later, the diminutive Senator Beveridge from Indiana. Just how or why this latter specimen of his race was not devoured in toto by the raving lion of southern jungles was due perhaps to senatorial decorum. This latter consideration would prevent perchance a further exhibition of pugilistic prowess than merely to cudgel, choke or pinch the ears of the small, though brilliant Beveridge. Then, too, perhaps, generous Joe would not so unkindly seem as to utterly destroy and exterminate a man so far his inferior in all the attributes, not only of body, but of mind and heart. Proud indeed, should all Texans be that their great Senator should such polite and generous conduct show. Especially is this true when we reflect that Joe has said—and neither his judgment nor his veracity ever were at fault—

that all Republicans were dishonest men, unworthy of belief, consideration, or of charity, because they from our lord and master make bold to differ.

"JOE" AND "TEDDY."

In the spring of 1906 Mr. Bailey became very angry, while Congress was in session, at a suggestion that he "was suspected of holding secret conferences with Mr. Aldrich himself, and by skillful support of his anti-injunction amendment, Mr. Bailey had intentionally split up the Democratic caucus and Mr. Tillman could not deliver anything like a unanimous Democratic vote." So belligerent did the irate Senator become as to charge President Roosevelt with membership in the Ananias club. "I denounce the publication," declared the bellicose Senator from Texas, "as an unqualified, deliberate and malicious lie. I denounce that correspondent as an unqualified, deliberate, malicious liar, whoever he may be, and whatever the office he holds."

Intemperate and vehement denunciation is usually an evidence of a lame cause and of weakness, not of strength, in the man who makes use of superlatives. The belligerent Senator from Texas is no exception to this rule.

PROPOSES TO DRIVE HIS ENEMIES INTO THE SEA.

When the voucher disclosures were made in November, 1906, during the course of the Waters-Pierce oil litigation in Texas, showing Bailey's real connection with that trust, and the fact that he had received large monetary compensation from them was made known, Mr. Bailey became extremely indignant and announced from Washington his proposed return to Texas and promised his idolators that it would require only two days for him to put the "Hessians" to rout and drive all his "enemies" into the Gulf of Mexico. The only regret that he has ever expressed for this proposed immersion, was occasioned by the fact that he hated to "pollute" the waters of the historic Gulf.

While the agitation leading up to the investigation by a committee of the Thirtieth Legislature, 1907, was on, Mr. Bailey would send out for members of the Legislature and employ every promise of reward and every threat of punishment, that his lordship could conceive, as a whip to force first, his re-election, and second, his whitewash. Especially were these tactics employed with the younger members of the Legislature, most of whom, it is thought, were promised congressional honors at the hands of Boss Bailey.

BAILEY AND HIS "GUN."

SAN ANTONIO, TEXAS, (San Antonio Express),

December 15, 1906.

Mr. Bailey was in the city today, the guest of his friend, Col. Jot Gunter. Only one member of the Bexar County Legislative delega-

tion, J. F. Onion, called on him, Mr. T. D. Cobbs being out of the city. Senator Green and Representative Wm. A. Cocke, although in their offices, did not call, though Mr. Cocke was urged to do so by a number of Mr. Bailey's partisan supporters.

All day reception was held in Col. Gunter's office, but less than an hundred citizens out of a voting population of 12,000 to 15,000 called. Some of his callers expressed fear for his personal safety and said they had expected to hear of a personal encounter between him and his "enemies."

CARRIES "GUN" IN SATCHEL.

"I have always expected it myself," said Senator Bailey. "While I never carry a pistol in my pocket, I always carry one in my hand satchel. A few nights ago, while riding on a train, two men purposely sat in a seat next to me and began to make remarks about me. I removed the pistol from my satchel and placed it in my pocket. *There were no more remarks made about me on that occasion.*"

POLITICAL EXTERMINATOR.

Hon. S. E. Johnson, a member of the lower House, testified before the Committee (Committee Report, 1907, pages 379-380) that he was many times importuned by a Bailey member of the House "to go down and see the Senator." Mr. Johnson testified in part: "He, Bailey, said that he would see that the people who would oppose him for re-election *would never hold another public office in the State*; that he had a little money left, and he said, thank God, he had the right of free speech and he would see that these men who opposed him in this race would never hold another office. * * * He went on to state that this Duncan resolution *was not the kind of investigation he wanted*. * * * He was going to see that the men who opposed him in this investigation never hold another public office in this State."

ABUSES HIS OPPONENTS.

Hon. J. D. Cox, of Rockwall County, was asked to call on Mr. Bailey at the Driskil Hotel and in his testimony before the Committee (1907, pages 384-385) said: "He [Bailey] used about as vile language as a man can use in regard to it." Witness then gave some of the language employed by Mr. Bailey, which is so low and vile as to make it improper to be reproduced in this volume. The language, however, can be found near the bottom of the second column of the Bailey Investigation Committee's Report (1907), page 384. Mr. Bailey threatened to go into the districts of those who were claiming, on behalf of the people, the right to investigate his conduct while their Senator, and defeat all such for election to any office within the gift of the people.

Bailey, the immaculate, in a speech to the Thirtieth Legislature, immediately following his re-election January 23rd, 1907, (Dallas

News, January 24, 1907), among other bitter and boastful things, said: "In all the long and glorious history of our own and of other Southern States, *there never lived and served a man whose record is as much above suspicion of unselfish men as mine.* * * * They have never been able to discover *even one mistake.* Is it not marvelous that in a State like ours a man *whose record is as stainless as mine has always been,* can be pursued as they have pursued me? * * * *My name is indissolubly connected with the name of the State of Texas.*"

"I do not apologize for anything I have done. I ask no quarter. I cry not for peace. I am for war. Let it be war to the knife and knife to the hilt, and I exclaim, 'Lay on Macduff, and curst be he who first cries hold, enough!'" Thus declared this apostle of strife, at Cleburne, Texas. October 15th, 1906, (Galveston News, October 16, 1906).

MR. BAILEY'S PARTING DEFI TO THE 30TH LEGISLATURE OF TEXAS.

On February 27th, (Dallas News, February 28, 1907), the night of his dishonor, but by his partisans referred to as his "exoneration," after the Texas Legislature had whitewashed him, without waiting to receive the testimony and without permitting debate, Mr. Bailey, rampant and raging, gave expression to many violent, vindictive and bitter remarks, among them the following:

"I had intended at the end of this Senatorial term to retire, * * * but the war these infidels have waged on me has changed my purpose, and I never intend to retire until all of them are safely buried, politically speaking. However, I do not care to retire when they are buried, because if I did I would have to retire at the expiration of the next year. They have made their own graves. We are going to lay them away in those newly made graves. We are going to bury them face down, so that the harder they scratch to get out, the deeper they will go toward their eternal resting place.

"Mark my words, not one of the men who organized and sought to accomplish this conspiracy will ever again wear the honors of Texas Democracy. * * * *Not an honest drop of blood courses in their veins.* They say this is a bitter speech. I intend it to be bitter. If I might borrow a sentiment from the great infidel, Robert G. Ingersoll, I would say that I sometimes wish that I might possess words of pure hate, words that would writhe and hiss like snakes, for only then could I express my opinion of the men who organized and conducted this conspiracy. * * *

"If I live not one of their kind will ever again disgrace the State of Texas by holding an office under its authority. * * * In my home I intend to put the photograph of this legislature. Two pictures will embrace that photograph. Over the one I am going to write "The Roll of Honor," and over the other, I am going to write "The Rogues Gallery." * * * *I am going to swear my children never to forget the one, or forgive the other.*"

BAILEY AS OTHERS SEE HIM AT WASHINGTON.

That the people of Washington and especially those having intimate knowledge of congressional affairs, fully understand and deprecate Mr. Bailey's real character and duplicitous conduct, is clearly illustrated by the following pungent letter, written to the author from Washington on the 12th day of January, 1907, while the fight for an investigation of Mr. Bailey's conduct was in progress at Austin. The letter speaks for itself and is worthy of incorporation here:

"I have read with a great deal of interest and satisfaction your address of January 2, as reported in the Galveston Daily News. For twenty years I have been an employee of the House of Representatives here at Washington, and as such have an opportunity to note and study public men. Some are great, and some are so-called great. Joe Bailey is a "so-called" in every sense of the word. As so-called leader of the minority in the 55th and 56th Congress he was a great success,—for the Republicans. For his party, however, he was a flat failure. To people right here on the ground, Bailey is the nine, ten, Jack, Queen, and Deuce. Joseph is a short straight all the time, but tries to bluff the populace that he has the King,—in fact that he is the King himself. Joseph can no more be straight than the above mentioned poker hand can be, for he's short the requisite.

BAILEY-ALDRICH AND THE RATE BILL.

"I do not know whether much stress is being laid upon Bailey's bluff in the matter of the Railroad Rate bill in the Senate, or not. If not, it certainly should be freely aired. When honest and rare old Ben Tillman was put in charge of the Rate bill by Senator Aldrich, the Democratic party was placed in a position to solidify itself and make more political capital than in any ten previous years taken together. Tillman and other honest Democrats recognized this, and they all thought that Joseph had caught the King and would be in at the show-down. *But Aldrich, the representative of the Standard Oil knew his own.* Good old Ben Tillman, scenting the battle, shook his mane, lowered his head, elevated his tail and charged the enemy. Before reaching the enemy, however, he rushed into a cloud of Constitutional dust that Bailey had kicked up, and when old Bull Ben emerged he looked like Wade's Kansas pup after coming in contact with the cyclone, viz: he was upside down and wrong side out. The country, at the time, applauded Joseph for his well balanced defense of the Great Constitution, *and I presume the Waters-Pierce people remitted the interest on his notes.* The country in general thought that good old "one-lamp" Tillman had made a mess of it, Aldrich blandly smiled, and Joseph strode forth from the Senate with immaculate shirt-front, a mighty man.

BAILEY AND STANDARD OIL.

"The Standard Oil practically controls the railroad systems of the country. Texas has within her borders more miles of railroad

(consequently more Standard Oil influence) than any other State in the Union. Aldrich represents the Standard Oil in the Senate. Bailey balled up the rate bill under the cloak of the Constitution which he professes to love so well. Why, the work is so coarse it has slivers at the joints.

"Will the Standard Oil be able to buy Texas? It needs Bailey, not for Texas, *but to befog and befuddle the game on the Democratic side*. Fancy Aldrich, the leader on the Republican side of the Senate, and Bailey the leader on the Democratic side. It would really be like taking candy from the baby. Will Texas aid in this damnable business, or will she rise to the occasion?

"Bailey's course in the Senate undoubtedly explains the reason for his leading his party into strange and devious paths, under the same old cloak of the same old 'Dear Constitoooon-shin' (as he calls it) when he attempted to be leader of the minority in the House.

"Would to Almighty God that your Legislature was composed of men of the stuff that courses in your veins."

FAMOUS CRAWFORD CIRCULAR.

To the Citizens of Dallas, Texas:—In a speech which I delivered at Waxahachie on September 21, 1907, reviewing Joe Bailey's record as a Senator, I stated among other things, that: "Bailey never has, never can and never will fairly and honestly discuss the facts in this case. No advocate and no apologist of Bailey can ever do it. Fairly considered, his record is wholly indefensible."

Joe Bailey made a speech at Abilene on yesterday. In that speech he did not attempt to discuss the facts in the case. He did, however, state: "Bill Crawford has suborned more men to perjury than any other ten lawyers that now practice in the State of Texas." I have never suborned any man in my life, and I denounce Joe Bailey as a liar, a bribe-taking scoundrel and a coward.

W. L. CRAWFORD.

Dallas, Texas, October 26, 1907.

To this Bailey has never replied, nor has he ever mentioned Crawford's name in public again, though one of his satellites from Houston was afterwards fined \$100 for a pistol play in Dallas in connection therewith. Indeed the following dispatch refers to that very matter.

JUDGE FINED FOR CARRYING A REVOLVER.

(Special Dispatch to the San Antonio Gazette.)

Dallas, February 26, 1908.—Judge William Masterson, a Bailey member of the State Democratic Executive Committee, pleaded guilty in the county court today to the charge of carrying a pistol at the time of the Bailey-Crawford affair in this city. He was fined \$100. When arrested last fall he was accompanied by a senator, [Bailey.]

ANTIDOTES FOR BAILEYISM.

No man, however praised or abused, and no set of men, however brilliant or depraved, can control the ultimate destinies of an enlightened people.—*The Author*.

It is great and manly to disdain disguise; it shows our spirit, and proves our strength.—*Young*.

When clouds are seen wise men put on their cloaks.—*Shakespeare*.

Trust not him that hath once broken faith; he who betrayed thee once, will betray thee again.—*Shakespeare*.

The noblest contribution which any man can make for the benefit of posterity, is that of a good character. The richest bequest which any man can leave to the youth of his native land, is that of a shining, spotless example.—*R. C. Winthrop*.

Principles are everything; "the eternal years of God" are theirs.—*The Author*.

Let us not say, Every man is the architect of his own fortune; but let us say, Every man is the architect of his own character.—*G. D. Boardman*.

A fair reputation is a plant of delicate nature, and by no means rapid in its growth. It will not shoot up, like the gourd of the prophet, in a single night, but like that gourd in a single night it may perish.—*J. Hawes*.

Experience serves to prove, that the worth and strength of a state depend far less upon the form of its institutions than upon the character of its men; for the nation is only the aggregate of individual conditions, and civilization itself is but a question of personal improvement.—*S. Smiles*.

A good name is rather to be chosen than great riches, and loving favor rather than silver and gold.—*Solomon*.

If beneficent principles and civic righteousness triumph not in the end, human government is a failure, and the destiny of the race as unimportant and ephemeral as the fleeting phantoms of a fading dream.—*The Author*.

Character is built out of circumstances. From exactly the same materials one man builds palaces, while another builds hovels.—*G. H. Lewes*.

Never does a man portray his own character more vividly, than in his manner of portraying another.—*Richter*.

If you would civilize a man, begin with his grandmother.—*Victor Hugo*.

Conceit is the most contemptible, and one of the most odious qualities in the world. It is vanity driven from all other shifts, and forced to appear to itself for admiration.—*Hazlitt*.

Purity in politics, like purity everywhere, ought to be the rule.—*The Author*.

It is wonderful how near conceit is to insanity!—*Jerrold*.

He who gives himself airs of importance, exhibits the credentials of impotence.—*Lavater*.

The overweening self-respect of conceited men relieves others from the duty of respecting them at all.—*H. W. Beecher*.

It is the admirer of himself, and not the admirer of virtue, that thinks himself superior to others.—*Plutarch*.

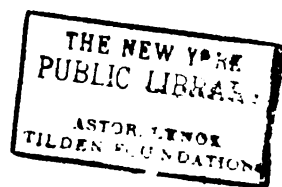
Conceit may puff a man up, but can never prop him up.—*Ruskin*.

We uniformly think too well of ourselves. But self-conceit is specially the mark of a small and narrow mind. Great and noble natures are most free from it.

A man should never be ashamed to own he has been in the wrong, which is but saying, in other words, that he is wiser to-day than he was yesterday.—*Pope*.

Why does no man confess his vices? Because he is yet in them. It is for a waking man to tell his dream.—*Seneca*.

Let us indulge the optimism of hope rather than the pessimism of despair.—*The Author*.





STANDARD OIL GIANT.

CHAPTER IX.

STANDARD OIL MANEUVERS IN TEXAS AND BAILEY'S FIRST INVESTIGATION (SUPPRESSION) 1900-1901.

By the winter of 1899-1900 the Standard Oil trust, through the Waters-Pierce Oil Company as its Southwestern branch, had been all but driven from the State of Texas. It had fought for an opportunity to continue to plunder the people of Texas, but the United States Supreme Court had affirmed the decree of ouster and an appeal lay only *to the tribunal of political influence*. The then supposedly brilliant and brainy Bailey was the presiding political genius in Texas at that juncture. He had been ten years in Congress and was then prospective Democratic nominee for the U. S. Senate.

Honorable Thomas S. Smith, Bailey's close friend, then attorney-general of Texas, testified before the Bailey Investigation Committee of 1901 (House Journal, pp. 164-166, Twenty-Seventh Legislature): "I told him [J. D. Johnson, general attorney for the Waters-Pierce Oil Company] in the fall of 1899 that under no circumstances would they be permitted to enter Texas pending that appeal [to the United States Supreme Court]. * * * Under no circumstances would we give him a permit to do business in Texas. * * * After the Court affirmed the case in March, 1900, the attorneys came to me to see about giving them time. * * * I told the attorneys that I would give them a reasonable length of time. They submitted different propositions to continue business on their old charter. I considered that *the judgment of that Court was perpetual*. They wanted to pay penalties and *suggested fabulous sums*. I told them I would not consider money; *that money was no object to Texas where principle was involved*. That was all I had to say to them. Just about the time of the second visit [to Texas of Mr. Pierce and his lawyers] some one stated, 'your friend Bailey is in town.' * * * He said: 'What are you going to do about this Waters-Pierce Oil business?' I told him that I had come to the conclusion that they could not do business in this State. He said: 'If you think they could do business legally, on account of a friend [not, of course, on account of the thirty-three hundred dollars that he had in his pocket from Pierce], I would be glad for them to be permitted.' * * * Just after he left, Mr. Pierce, Judge Clark and Mr. Johnson made another visit. They came to talk again. We decided nothing but came out just where we went in; that was during the first part of May. * * * Finally the Waters-Pierce oil people wrote me and wanted me to suggest some method whereby they could do business. All I could say was: 'You cannot do business in Texas under your old charter.' * * * I gave them until the 31st day of May, after which the

mandate would issue and the process would be served. * * * They came with a new charter. * * * I was surprised to see that it had the same name as the old company. *We were very much put out.*"

BAILEY UNEXPECTEDLY RETURNS TO TEXAS.

AUSTIN, TEXAS, May 1, 1900.

"His [Bailey's] coming has created more or less surprise, and when it is known through the State, will likely create much comment as he left the city only a short time ago, and upon reaching Washington immediately retraced his steps to Texas. Mr. Bailey refuses to make any statement for publication. * * * He said to the News correspondent that he had not made any engagements to speak and that he did not know how long he would remain in Texas."—Galveston News, May 2, 1900.

BAILEY'S RETURN TO TEXAS SURPRISE AT WASHINGTON.

WASHINGTON, May 2, 1900.

"The announcement that Representative Bailey had turned up in Austin to investigate a rumored plan of the Democrats to insert an anti-expansion plank in the Texas Platform, was read with much surprise. Mr. Bailey has been expected for ten days or more, and his friends have been preparing a reception for him. It was learned several days ago that he had stopped off in Kentucky on business and his arrival has been daily expected."—Galveston News, May 3, 1900.

From the foregoing it will be noticed that Mr. Bailey was concealing his movements and the business upon which he was engaged, to-wit: a surreptitious effort, through political influence or otherwise, to establish the Standard Oil monopoly back in Texas.

BAILEY WANTED IN TEXAS FOR HIS PERSONAL AND POLITICAL INFLUENCE—NOT AS A LAWYER.

Attorney John D. Johnson, of the Waters-Pierce Oil Company, admitted frankly to the Bailey Investigation Committee (Report, pp. 103-104) of the Thirtieth Legislature, 1907, that, having exhausted their legal resources in the matter of continuing business in Texas, they then resorted to the employment of Bailey for his "personal and political influence." Here is his language, plain and callous:

"Let me tell you the story of that [trip to Texas] as I recall it. When the Supreme Court at Washington affirmed the judgment in the main case here, cancelling the license of the old Waters-Pierce Oil Company, we began, Mr. Pierce and I began, *looking around considering*. [What?] *Mr. Pierce wanted to employ some additional counsel who possessed personal and political influence.* [Is not that plain enough to convince the people of Texas that they wanted to buy, not legal talent, but Mr. Bailey's "personal and political influence?"] It is very natural for clients to look around for good lawyers *of that character.* He had never met Senator Bailey, but was very

favorably impressed with him. [Doubtless so impressed through their mutual friend, Governor Francis, who well knew, on account of the World's Fair and Gibbs Ranch deal, that Senator Bailey's political influence was for sale—not in a coarse, open, bribe-take and bribe-give fashion, perhaps, *but nevertheless for sale.*] In talking the matter over with Governor Francis one day, Mr. Pierce determined to come down here and surrender on that indictment at Waco, so that he could give personal attention to it [he brought along with him over \$2,000 in cash "for distribution at Waco account that indictment." See Naudain's testimony], and see Mr. Bailey here and make arrangements to employ Mr. Bailey on behalf of the Waters-Pierce Oil Co. *That was the understanding."*

PIERCE AND JOHNSON IN TEXAS.

AUSTIN, TEXAS, May 2, 1900.

President H. C. Pierce and attorney J. D. Johnson, after making application for a new permit to do business in Texas, left for Waco to adjust the indictment against him and judgment against his company.—Galveston News, May 3, 1900.

Mr. Bailey met them at Waco and there joined in the conspiracy which finally resulted in a dismissal of the penalty suits against the Company, as well as of the indictment against Pierce and by which conspiracy Oscar Stribbling was finally bribed by George Clark, Joe Bailey, J. D. Johnson and H. C. Pierce, into foresaking his duty to the State of Texas, as one of its attorneys in those matters.

In addressing the State Convention at Austin June 21, 1900, Mr. Bailey asked: "If there is an anti-Bailey party, let it be crushed out."—Galveston News, July 22, 1900.

BAILEY THREATENS POLITICAL WAR.

DALLAS, TEXAS, Aug. 6, 1900.

This morning Congressman Joseph W. Bailey arrived in this city from his Grapevine Ranch in this county. This afternoon he departed for Waco to participate in the sessions of the Democratic Convention which will be called to order in that place Wednesday. Congressman Bailey goes to the Geyser City with blood in his eye and his fighting garments on his back. *The cause of the fight he expects to make cannot be dwelt upon.*

"But," said the Gainesville man, just prior to his departure, "I have nothing to concede and nothing to evade. My conscience is clear and I am willing to stand or fall by what I have done. The men who have made assaults upon me, have to face me. They are not after the Attorney-General and the Secretary of State. They failed to defeat me politically and now they are willing to go to any length to effect my undoing by vicious calumny and slime slinging. Let them come! I never sought such a fight as this, but so help me God, I will never run away from it."

Congressman Bailey was accompanied by scores of delegates who

swear undying allegiance to him and declare that his battles will be fought to the last ditch.—Galveston News, Aug. 7, 1900.

WACO, TEXAS, Aug. 7, 1900.

"Tonight Mr. Bailey has been in conference with his lieutenants from the going down of the sun until a very late hour."—Galveston News, Aug. 8, 1900.

WACO, TEXAS, Aug. 8, 1900.

The most acrimonious and bitter fight in the history of the Democratic party of Texas since the day when Richard Coke dethroned Edward J. Davis, is on.

Congressman Bailey opened the ball in an hour's speech in which he flayed alive those who have imputed to him improper motives in connection with the relicensing of the Waters-Pierce Oil Company to do business in Texas. Mr. Bailey was very sensational, very dramatic in his utterances at times and closed by denouncing those who were fighting him as "scoundrels, and liars." Mr. Bailey's partisans yelled themselves hoarse during the time he occupied the platform.—Galveston News, Aug. 9, 1900.

BAILEY'S SPEECH AT WACO STATE CONVENTION, AUG. 8, 1900.

"As sure as God lives and rules the universe, the re-election of Wm. McKinley is the beginning of the empire. He knows it and his partisans know it. * * *

"If there is any man in Texas who has done anything to discredit our party and our State, bring him before the public and expose him. * * *

"There isn't a man in Texas who believes there is money enough in the world to corrupt my judgment. [There were not many then but close to three million now.]

"My fellow citizens, you are entitled to know just what relation I bear toward the re-entrance of the Waters-Pierce Oil Company into this State, and you shall know.

"I have never done anything in my life that I wouldn't stand on and fear to let the whole world know it. [Why did he refuse to tell the Texas Legislature what fee he was to make out of the Tennessee Railroad deal?] * * * *I have never done or said anything anywhere that I would not do or say everywhere in the world. [What a perfect man!]*

"My fellow citizens, my part of that transaction was this: The president of the Waters-Pierce Oil Company, *a life-long Democrat*, [of the Joe Bailey grafting type, evidently] and I believe a gentleman [then under indictment], brought me a letter from a man *whose heart lays near mine* [Francis]. For fifteen years he has been my friend and I have been his. [Francis testified before the committee in 1907 that he only met Bailey once (1891) before (1899) at which latter time they became well acquainted, on account of the World's Fair legislation.] He says that 'Mr. Pierce is in some complications

in my State and I know nothing of what they are. I have told him to come to you and you would tell him the truth and deal honestly with him' [but dishonestly with the people of Texas]. I said, 'Mr. Pierce, I do not believe the people of Texas ought to, and I do not believe the people of Texas will, tolerate the methods of the Standard Oil Company. I would rather go back to the tallow candle than do it [but he has never gone unless they use tallow candles at the Waldorf-Astoria].' 'Mr. Bailey,' he said, 'you are still laboring under the impression that all the people in your State are under. We are not a part of the Standard Oil Company. I never owned a dollar's worth of that stock and the *Standard Oil Company never owned a controlling interest in our Company.*' [Evidently Mr. Pierce owned an interest, but less than a *controlling* interest].

"If that is true, Mr. Pierce,' I said, 'then go down to the State of Texas [where "all the people" were under the impression, according to Mr. Pierce's own statement to him, that the Standard controlled the Waters-Pierce Oil Company], and tell our Democratic officers [having failed to prove his story before the Courts of the land, Bailey advises him to whisper it to "Democratic officers"] that that is the truth. They want to know that you are not a part of the trusts and that you will abide by our law and you will have no trouble in being re-licensed to transact business in Texas.'

"He offered to employ me as his attorney. I said, 'No, sir; you haven't got money enough to secure me. I would not be employed for such a purpose. [Mr. Bailey has many times said since that he would have accepted the employment direct from the Company if they had asked him.] I would not be employed for such a purpose. If you want to abide by the law, you won't need a lawyer. [Pierce had told Francis that he had good lawyers in Texas, but that "they did not seem able to get what he wanted." See Francis' testimony, 1907.] Go down there and tell the Democratic officers of our State that you will be willing to do so, and they will be glad to have you resume business in the State of Texas. [Attorney-General Tom Smith testified on this point, House Journal, Page 165, January 18, 1901, referring to the attorneys for the outlawed company: "They wanted to pay penalties, and suggested fabulous sums. I told them I would not consider money, that money was no object to Texas where principle was involved. That was all I had to say to them."]

"*He took my advice.* * * * The Attorney-General said to him, 'Mr. Pierce, this judgment is that your company should never again transact business in the State.' *I happened to be at the capitol at that time,* and talked with the Attorney-General. [Attorney-General Smith and Mr. Bailey were classmates in Mississippi.] * * * I then said to the President of the Waters-Pierce Oil Company, 'You go and *purge* yourself. [Was he to vomit up some of his accumulated oil (Standard Oil) gains?] You go and come back to the State *with clean hands*, take the oath that you will abide by our laws; and then we will be ready to welcome you or any other legitimate business.'

"I said, 'Mr. Pierce, make up your mind that you must abide by these laws. [Listen to this Standard Oil Senator, delivering a moral lecture to a Standard Oil barron on the sacredness of Law! How well and faithfully Pierce observed these injunctions by his distinguished preceptor is shown by his own testimony at St. Louis, September 10, 1906, after he had "gone and come back," making six to seven hundred per cent. per annum out of the people of Texas, Mr. Bailey's constituents, in the meantime.]

"He went and returned with a new charter, procured at an enormous expense—more than \$50,000. [How and why did Bailey know these details as he merely "happened" to be at the State capitol at the time Pierce and Johnson "happened to be there," then three months ago, and of course he hadn't "happened" to see them since, or he, Bailey, would have said so.]

"He (Pierce), took the oath that he was not a part of any trust; that he was in no combination or agreement in violation of the Laws of the State of Texas; he solemnly promised to abide by our laws, and I *happen* to know that today [must have been in pretty close touch with this Waters-Pierce Oil Company business and its readmission, although in January, 1907, he wrote Charles Fred Tucker, that, "He had nothing more to do with it than Tucker had to do with the salvation of immortal souls"] he has issued to every agent in this State a special written instruction to abide the anti-trust laws of Texas in letter and in spirit [and of course they did so and the jury at Austin in June, 1907, in finding the Company guilty of having violated those laws, every day after Bailey intervened for the company, and fixing the penalty at \$1,623,900, was simply prejudiced against Mr. Bailey and therefore "stuck" the company].

"What more do you want?" cried Mr. Bailey to the assembled Democracy, and his dupes cheered wildly. [Oh, Texans, what has become of your boasted independence that worships not men of clay, but has regard only to principles, to justice, and to truth!]

"I believed," continued this great tribune of Standard Oil, "I had secured a triumph for the State of Texas by helping to bring the greatest trading corporation within our borders to the feet of the Attorney-General of the State with a solemn oath in their hands, that they would abide the laws."

This was a banished and outlawed company at the end of four years' litigation to the Supreme Court of the United States, whose final mandate of expulsion was filed in the trial court at Austin April 25, 1900, the very date that Bailey first met Pierce and borrowed (?) \$3,300. Pray, Texans, of what force is "a solemn oath" to a Standard Oil magnate and its political attorneys who peddle official influence?

Delegate Donovan, of Colorado City, actually had the impudence, think of it, Texans, to brazenly interrupt a Standard Oil candidate for the United States Senate with this impertinent question: "Mr. Bailey, did you not, at that time, recognize the fact that you were negotiating with a criminal, who was under indictment in the

courts of Texas?" Mr. Bailey waved his arms and shouted a reply, but it was lost to the reporters in the great uproar created by this champion of the interests and his idolators. When the confusion had subsided Mr. Bailey continued: "Let me say this: That the law was designed to compel men to obey it. [And the people of Texas were paying J. W. Bailey to aid in its enforcement, whereas he had bartered his influence to aid the enemies of the people in evading it.] What more do you want than obedience to it. Now, my fellow citizens, I need only state that at Austin I stated to those people: 'You must go to Waco and pay the penalty which has been instituted against you there.' I came to Waco [just happened to come?] I said to the County Attorney: 'Mr. Thomas, I do not know enough about Mr. Pierce to vouch for his veracity, but I do know Dave Francis [the Standard Oil Governor of Missouri who had helped Bailey buy an hundred thousand dollar ranch at a time that he, Francis, was trying to keep Bailey "quiet" and prevent him from opposing the St. Louis Exposition as he, Bailey, had opposed the Chicago Exposition], and I believe anything he says. He says, I can place credence in Mr. Pierce, and Pierce says he will swear to obey the laws. I believe that he is going to do it, [Listen at the jingle of that \$3,300 in Bailey's pocket at that very moment], and I believe that you ought to settle with him on that basis, being sure that he pays a penalty that shall vindicate the authority of the State of Texas. [Now Bailey says, "If you fine them in the courts, they will fine you in the market place. Put them in stripes."]

"Who says that is wrong?" (A voice—"Me") Mr. Bailey: "Who?" (Another voice—"An idiot.") Mr. Bailey: "No, he is not an idiot, he is a scoundrel, the man that says it." (Cheers and hisses and terrific uproar.)

Mr. Bailey: "Listen to me: I have told these facts. They have been differently stated, but I challenge any man in this hall to stand up in my presence and say that I misstated them. * * * If you do not repeat it in my presence and yet repeat it when I am gone, I denounce you both. [To the delegates] as a liar and scoundrel."—*Galveston News*, August 9, 1900.

The Chairman appealed to the Sergeant at Arms to restore order and thus did Mr. Bailey finish his brilliant defense (?) in a characteristic "holier than thou" oratorical flight.

At the close of Mr. Bailey's speech there came a wild, hoarse cry for "Hogg! Hogg!! Hogg!!! Hogg!!!! Jim Hogg, get up and give us your side." Then followed that memorable speech by the great naive Texan, whose heart always beat warm and true to the interests of the common people. Mr. Hogg's speech followed closely his address to the bar association at Galveston on the same subject which is hereinafter set out. (See Appendix.)

A resolution was offered in the committee on platforms and resolutions condemning the Waters Pierce Oil Company's fraudulent re-admission, but Mr. Bailey's friends, among them D. W. Odell of

Johnson County (the same Odell who defended Bailey before the Suppression Committee of 1907), smothered up the matter in the committee and thus began the chapter of suppression that has ever since characterized Mr. Bailey and his boodlers since his disgraceful connection with the Standard Oil Company.

M. M. Crane, ex-Attorney General of Texas, made a strong speech denunciatory of the fraudulent readmission and presented to the Convention a letter from the Attorney General of Missouri expressing the opinion that the Waters Pierce Oil Company had in fact and in law never dissolved its corporate existence in Missouri.

Mr. Hogg stated that "the material question presented by the repermission of the Waters-Pierce Oil Company to do business in this State is: Shall Texas, or the trusts control? Shall the Secretary of State of Missouri nullify the laws of grand old Texas by the dip of pen and its stroke upon a piece of paper, and thus ride around the solemn decree of our highest courts enjoining that concern from doing business in this State?"

The question as to whether or not "Texas or the trusts shall control" remains unsettled to this day, and J. W. Bailey's splendid talents, with his former unequalled popularity, has been thrown in the balance against the people of his adopted State all these years while their commercial life blood has been sucked from the people and an ineffaceable blot stamped upon the political history of our State.

BAILEY'S FIRST INVESTIGATION (1901).

Early in the session of the Twenty-seventh Legislature, 1901, Hon. D. A. McFall, of Travis County, introduced in the lower House a resolution calling for an investigation of the facts incident to the fraudulent readmission of the Waters-Pierce Oil Company into Texas during the previous year. Judge McFall had been active in his denunciation of the readmission as a travesty on justice and commercial robbery.

Mr. Bailey was shortly to be elected to the Senate by the Twenty-seventh Legislature, he having received the Democratic nomination therefor a year previous. About the time that the McFall resolution was introduced, a caucus of members of the Legislature, Mr. Bailey's friends, was held in the latter's apartments at the Driskil Hotel.

Honorable John R. Smith, of Collins County, a member of the lower House who attended said caucus and who testified before the Bailey Investigation Committee of the Thirtieth Legislature (House Journal pp. 624-630) testified as follows: "It was suggested in there that if the resolution was offered, and it coupled Mr. Bailey's name with it, we were to vote for it and if it did not couple his name with it we had better vote it down."

From this it would seem Mr. Bailey was trying then to shield the Waters-Pierce Oil Company in the matter of its readmission. Knowing his own popularity, feeling confident, at that time, that the public would never know of the monetary consideration he had re-

ceived and expected to receive from the hands of the trust masters, *he was willing to secure his own vindication through a superficial investigation.* At the same time he was shielding the oil trust by asking his friends to vote down any effort at an investigation of the latter.

Mr. Smith testified that the Garner substitute for the original McFall resolution "made McFall the accuser." Mr. Smith voted for the original resolution. This angered the great Senator and he at once summoned Mr. Smith to his apartments for a private conference, under threat of having Mr. Smith's constituents hold indignation meetings because Mr. Smith had made bold to vote for the original McFall resolution as against the substitute, which latter was preferred by Mr. Bailey.

Mr. Smith testified, "He [Bailey] just offered to release me from my obligation to vote for him. He stated I had been running with his enemies." [Why didn't Mr. Bailey release all the members of the Thirtieth Legislature from the party nomination obligation, just as he proffered to release Mr. Smith in 1901? Answer: Because he could afford it then and could not afford it when his crime had found him out in the year 1907].

In his harangue to the investigation committee of 1907, referring to the investigation of 1901, Mr. Bailey said: "They [his friends in the Twenty-seventh Legislature, 1901], were not in favor of having any investigation, even if my enemies proposed it, and they would not even then except for my earnest insistence to the contrary—they would have put that resolution on the table and left it there and they wanted to do it, but I felt like if any member of the Legislature would make a charge, that then I wanted the Legislature to investigate it, and I stated to my friends then that if it was not investigated it would become a sore place in the politics of this State, and that men would lie about it for twenty years to come, whereas, I thought an investigation would settle it. [He was a popular idol then; his hand was well on the throttle; there were very few who had lost confidence and it was evidently, from his standpoint, an opportune time to be exonerated from the suspicion that even then arose and thus would he be enabled as he thought to ever after plead, as he has plead, *res adjudicata*.] I did not exactly know the kind of lies with which I had to deal. They have been lying about it since just the same as if there had been no investigation, and they will probably continue to lie about it.

"There was but one man [Smith] out of all the men who represented those counties [his old fifth district] in the Legislature [1901] who was really willing to vote for an investigation. All the others wanted to kick it out of the Legislature, but I remonstrated with them and pursued the argument as I outlined here awhile ago [that such was the best way and time to close the scandal] and then they agreed to go back and vote for the resolution [The McFall Resolution as amended by the Garner substitute.]

"I sent for Mr. Smith to come to my room and I said, 'I see that statement [that Mr. Smith would vote against him except for his instruction], and I want to relieve you so far as I can from your instructions. [Why didn't he relieve all the members of the Thirtieth Legislature in 1907 of their instructions?] I would like for you to vote against me. I would like to see what the folks in Collins County would do to you at the next election.' [Why didn't he wait to see what the people of Texas would do to the members of the Thirtieth Legislature if he should release them?]"

In the investigation of 1901 Hon. D. A. McFall was sought to be made to occupy the position of Prosecutor, whereas he was entitled to the position of Chairman of that Investigation Committee by reason of having introduced the original resolution. In a letter to the Committee, dated Austin, Texas, January, 1901, Judge McFall said: "At Mr. Bailey's instance and request the House forced over my protest a substitute, putting my name into the resolution as charging the things therein charged. Had I been placed on the committee of investigation as every consideration of practice, precedent, courtesy and fairness demanded that I should, as the author of the original resolution, I would have given the committee all the assistance in my power to ascertain all the facts surrounding the matter to be investigated. The resolution provides that the committee shall ascertain the facts and report them to the House. So by no stretch of fancy can it be called a trial court. I refuse to allow the committee to place me in a position of prosecuting attorney."

During the hearings of the committee in 1901, Bailey did not require the services of three able lawyers, as was the case in the investigation of 1907. *There was not nearly so much light to be shut off then, as in 1907.*

He tried the same game of bluff and bluster, brag and bulldozing, only in more vicious forms, before the committee of 1907, but he did not succeed in covering up all the facts with reference to his trust affiliations as he had done in 1901.

BAILEY WHITEWASHED IN 1901.

The McFall Resolution (House Journal, 27th Legislature, page 136) charged that the "act of dissolution and re-incorporation" of the Waters-Pierce Oil Company in 1900 "was perpetrated upon the State of Texas" as "a fraud which has brought her laws and courts into disrepute both at home and abroad, and shame and humiliation upon her people; * * * that in the accomplishment of their purposes and perpetrating of said alleged fraud, the officers of said Waters-Pierce Oil Company had the passive assistance of certain State officials, and the active assistance of Congressman Joseph W. Bailey, who is now a candidate before the Legislature for the high office of United States Senator."

The committee "for the purposes of obtaining testimony, was vested with all the powers possessed by the District Courts of this

State," and was instructed to investigate "all the facts connected with, incident to, or surrounding said transaction."

The committee met and invited Mr. McFall "to be present during the sittings of this committee and to present his charges as specifically as he can." Hon. D. A. McFall was sick at the time and finally refused to be put in the attitude of personally preferring charges or to assume the role of a private prosecutor, when, as a matter of fact, he should have been chairman of the committee. Under the dictation of Bailey (House Journal 27th Legislature, pages 137-139) the committee issued a subpoena and thus sought to force him to appear before the committee. This was repeated on the 16th of January in the face of a certificate filed with the committee by Dr. J. H. Wooten to the effect "that Judge D. A. McFall is confined to his room by sickness and it will not be safe, in his present condition, to go out at all." This certificate was repeated the next day.

On January 16th, 1901, Hon. D. A. McFall forwarded to the Chairman of the Committee the following letter: "Although the resolution under which your Committee was appointed makes no provision for the preferring of charges, and though I have refused heretofore to make charges because of this fact, yet as it seems that your committee will take no action whatever unless charges are made, I desire to say that I will make formal charges today and hope to have them before you at your afternoon session. In order to save time I have requested that you issue your subpoenas for Hon. Cullen F. Thomas, of Waco, and Hon. Barnett Gibbs."

On the 17th of January, 1901, Hon. D. A. McFall filed the following specifications (House Journal, 27th Legislature, pages 148-149) to-wit:

**THE STATE OF TEXAS,
COUNTY OF TRAVIS.**

Comes now D. A. McFall, a member of the Legislature from Travis County, and charges and presents that heretofore, to-wit: on the — day of —, 1897, there was instituted in the District Court of Travis County, Texas, by her Attorney General, M. M. Crane, a suit in the name of and on behalf of the State of Texas and against the Waters-Pierce Oil Company for alleged violations of the statutes of this State, known as the anti-trust statutes; that upon trial said court rendered judgment in favor of the State as against the defendant, decreeing that defendant's permit to do business in Texas should be cancelled and awarding an injunction perpetual against its ever transacting business again in this State. That this judgment was on appeal sustained by the Court of Civil Appeals for the Third Supreme Judicial District of Texas, the Supreme Court of Texas and the Supreme Court of the United States. That after said affirmation by the Supreme Court of the United States the defendant company entered into negotiations with the State officials having the matter in charge looking to some compromise whereby the force

and effect of said judgment might be avoided. That in the accomplishment of this purpose they were assisted by Congressman Joseph W. Bailey who appeared in their interest in Austin, on towit, May the first, 1900, and urged upon the State authorities the pursuing of a course of conduct which would enable said company to continue to do business in this State, notwithstanding the judgment aforesaid, and that by reason of said Bailey's influence and personal and political popularity and prestige they were enabled by a mere sham of dissolution and reincorporation to evade the force of said judgment and continue to do business in Texas.

SECOND: Complainant further charges and presents, that on the — day of —, 1895, there were filed in the District Court of McLennan County, Texas, by the county attorney of said county on behalf of the State certain suits against the said Waters-Pierce Oil Company for alleged violations of said anti-trust act in which the aggregate amount of penalties was \$105,000 (one hundred and five thousand dollars); that the said Joseph W. Bailey did, on or about the second day of May, 1900, accompany H. C. Pierce, President of the said Waters-Pierce Oil Company, to Waco for the purpose of holding a consultation with the county attorney of McLennan county with a view to compromising said suits; that the proposition of compromise submitted by said Pierce was the payment of \$10,000 (ten thousand dollars) to the State in full of her claims, and the payment of \$3,500 (three thousand and five hundred dollars) to the county attorney as an extra fee for advising the compromise, and that the said Bailey endorsed said proposition and urged its acceptance.

D. A. MCFALL,

Representative Travis County.

In answer to the charges made in the statement of Mr. McFall's, Mr. Bailey said: "I desire to state, that I came to Austin, Texas, on a political matter; and the charges in there, that Mr. Cullen F. Thomas, County Attorney of McClennan county, should take a dollar is an absolute falsehood."

Bailey has always pretended, in order to cover up the real purpose of his return to Texas, May, 1900, that he came back "on a political matter." Both Governor Francis and J. D. Johnson testified before the Investigation Committee of 1907 that he went to St. Louis as a result of telegrams from Francis, in pursuance of an agreement between Francis and Pierce, and that he came back to Texas at the solicitation of and under an agreement with Pierce, first having borrowed (?) \$3,300 from the latter, that Pierce and J. D. Johnson would meet him at Austin and then proceed to Waco.

TESTIMONY OF HON. CULLEN F. THOMAS, WACO, TEXAS.

HON. CULLEN F. THOMAS, County Attorney of McClennan County, testified before the Investigation Committee in 1901 (House Journal 27th Legislature, pages 149-155) as follows: by Google

In McClennan County there had been some litigation with the Waters-Pierce Oil Company. In 1895 a civil suit was filed against the Waters-Pierce Oil Company for the forfeiture of the statutory penalty. That suit in amount aggregated \$105,000. About the same time the grand jury of McClennan county returned indictments against certain officers and agents of the Waters-Pierce Oil Company including Mr. H. C. Pierce, Mr. Finlay and some of the local agents in Texas, or rather defendant's agents. Shortly after the indictments were returned one of the agents was tried in the District Court of McClennan county (Mr. Hathaway); that was during the term of my predecessor, J. W. Taylor. Mr. Hathaway was convicted, and the case was appealed to the Court of Criminal Appeals and reversed by that court. The reversal was shortly prior to my election as county attorney. One of the first cases in which I represented the State, was a few days after I qualified, the habeas corpus, or rather an application for the writ of habeas corpus, was presented to the federal judge of the Waco district, Judge Swain. At that time Gen. Crane was Attorney General, and we together represented the State on that habeas corpus proceeding, sued out by the four agents.

At that time Mr. Pierce had not been arrested. He was living in St. Louis. At the hearing of the habeas corpus suit in Dallas, Judge Swain held that the anti-trust law of this State was unconstitutional. From his ruling an appeal was taken to the Supreme Court of the United States, at which appeal Gen. Crane represented the State. The Supreme Court reversed that decision of Judge Swain without passing on the constitutionality of the law. They reversed the case on the ground that, under the allegations of the petition for habeas corpus, the law did not properly lie. That left these defendants at large. Shortly after that the case was filed at Austin, with which I presume the committee are familiar. Gen. Crane alleging that the Waters-Pierce Oil Company was a trust, and further, special violations of the anti-trust law in this State. The cases were in suspension at Waco, awaiting the result of the Court of Appeals. About one year ago the constitutionality of that law was sustained. When that was done we began to get ready for the trial of the criminal and civil cases in Waco. Both had been going along on the docket awaiting that decision. When that was rendered the four defendants, agents of the company, came into the court and surrendered—in the District Court.

Q. Was Mr. Pierce one of the agents?

A. Mr. Pierce was not one of the agents, but shortly after the rendering of that decision Mr. Pierce came to Texas and surrendered to await his trial on that indictment. An effort had been made to extradite Mr. Pierce in the meantime. That was the condition of these suits in May last [1900]. The civil suits had been filed, as I stated, by my predecessor, Mr. Taylor, with the firm of Henry & Stribling, as associate counsel. A contract had been made between

them for a division of the fee. In May, last year, I believe either the 2d or 3d day of May, a compromise of that litigation was suggested—on the morning of May 2d or 3d.

Q. By whom was the first compromise suggested?

A. *By Mr. Bailey.* On that morning I met Mr. Bailey accidentally at the State House—I was there at the time. If my memory serves me right, we met in the dining room and he told me in there that he desired to see me. After breakfast he and I went down the street together from the State House towards the main business part of town. We met several friends along the way, and when we reached the corner of Fourth and Franklin, about the Provident building, Mr. Bailey said to me that he wanted to talk with me with regard to the Waters-Pierce Oil Company's litigation in our courts. His reference to the matter was very brief at the time. My recollection of the matter is that he brought up the subject in this way: "By the way, Thomas, you have some suits here against the Waters-Pierce Oil people. I promised my friend, David Francis, of St. Louis, that I would speak to the officials in regard to the matter. I don't know anything in particular about the merits of this litigation, but he is a friend of mine, and asked me to speak to the officials about it, and to do whatever you could do, using some qualifying words as consistently or properly with reference to the matter, I would be glad to have you do so, or do it." I believe that is the substance of Mr. Bailey's remarks at that time. That forenoon I was invited to a conference at the Pacific Hotel. That same forenoon I was invited by Mr. Henry or Mr. Stribling in Mr. Henry's room at the Pacific Hotel—his family being away. I went to the conference. There were present at that time Mr. Henry, Mr. Stribling and Judge Scott, in whose court both the civil and criminal suits were pending. The question of compromise was discussed at that time. I don't know that the committee care anything about the details of that, as Mr. Bailey was not present. [But he was at next conference.]

Q. Mr. Bailey was not present?

A. No, sir. At that conference Mr. Henry stated that Mr. Pierce was in the city with his attorney, Mr. Johnson, and that they were there for the purpose of settling their troubles in the courts. There had been no discussion whatever between Mr. Stribling and myself with reference to any compromise of the litigation. They stated: "That Mr. Pierce had made no offer to compromise the civil suits." They did not know at that time exactly what he would make, but they thought from what they could gather—they didn't state from whom—that he would pay something like \$10,000 or \$12,000 as a judgment to the State, and that in addition thereto he would pay them a fee—my recollection is—of \$2,000.

Q. To whom?

A. Henry & Stribling. They claim that the offer at that time was \$3,000 instead of \$2,000, which is immaterial.

Q. Henry & Stribling were representing the State at that time?

A. They were originally employed by Taylor. They drew the petition on which these suits were filed, and I think did most of the work. That proposition was this, in brief, as coming from Mr. Pierce, whom I did not see,—that he would pay to the State about \$10,000 or \$12,000 but I think \$10,000; that they would give to me their interest in the statutory fee, and that Mr. Pierce would pay them a fee, as I recollect, of \$2,000—as they remember \$3,000. The amount of fees was discussed by those present. The law under which those suits were brought provided for 10 per cent. of the amount as attorney's fees. Their contract was for a division of that. They claiming two-thirds. I told them, that as to the amount of the compromise, I was not perfectly familiar with the merits of the suits, and did not know what would be a proper compromise—if any was proper—that on principle, I was opposed to compromising the litigation on any grounds. And in the conversation cited some suits that had been compromised in this State. If a compromise was to be made, I did not know enough of the merits of the litigation to know what would be proper. I will state further, that I said that I did not know that it would be proper, whatever the amount that might be paid by Mr. Pierce, for them to receive any extra compensation. That our compensation was fixed by law; that we were not entitled to any more. They stated, "that they would take a reasonable fee, and that they would have the amount of compensation they received entered as part of the judgment." I told them when they offered the money to me, their part of the 10%, that I would be in the attitude of approving that some fee be taken and the 10%. Judge Scott was there a part of the time. *He left the three together, with the statement that as we were attorneys representing the State he would approve of any settlement that we agreed upon.*

Q. Was anything said at that time to Judge Scott about paying Henry & Stribling any other fee?

A. *He was present at the time the statement was made and said that he would approve.* Judge Scott took little part in that conference.

Q. He was sitting where he could hear what was said in regard to the fee?

A. Yes, sir. Most of the talk was between Mr. Henry and Mr. Stribling and myself.

Q. He interposed no objection at that time?

A. No, sir.

Q. He afterwards stated that he would approve any settlement agreed on, or any settlement that the attorneys agreed on?

A. Yes, sir. He stated so at that time. Messrs. Henry & Stribling asked me if I would meet Mr. Pierce that afternoon for conference. I told them that I did not care to. They said he was here for the purpose of making some adjustment of the litigation, and that there was nothing improper in conferring with him in regard to it. I stated that I was willing to go and hear what Mr. Pierce had to say;

but as far as making any proposition, I could not do that. They arranged for a meeting in the office of Henry & Stribling. There are some details along there that I don't suppose the committee care anything about. That afternoon about 3 p. m. I went to their office, and found there Mr. Pierce, Messrs. Henry & Stribling, and I believe that Mr. Johnson, his attorney, was there. I know he was. *We had been there about five minutes when some one knocked at the door—Mr. Stribling admitted him—that is, Mr. Bailey.* We remained in that conference about two hours, I suppose. During that time there was a general discussion, all hands joining, of the Waters-Pierce Oil Company litigation with reference to this suit.

Q. What part was Mr. Bailey taking in this?

A. Mr. Bailey was present and entered into the discussion. Mr. Bailey made this statement at that time, in substance, that he only knew in a general way the merits of these cases, that "I have not known Mr. Pierce personally," that he didn't know much about Mr. Pierce, that he was induced to become interested at the request of his friend, David R. Francis; that he knew Mr. Francis and that Mr. Francis would vouch for Mr. Pierce, and that he (Mr. Bailey) would vouch for Mr. Francis. He said he told Mr. Pierce that he needed no attorneys; that the only interest he (Mr. Bailey) had was as a citizen of Texas. [How about the \$3,300 "interest" then in his pocket?] That he would be glad to see the litigation so adjusted as to protect the dignity of the State; enforce respect for her laws; give outsiders in the world general notice that our laws must be respected and obeyed, and that the attorneys and the officials were not persecuting capital. He further said, that *personally he would be glad to see the criminal case against Mr. Pierce dismissed*, and he would be glad to see an adjustment in the civil cases that would both satisfy and protect the State, *and not mulct the defendant*, and further, that he thought Messrs. Henry & Stribling, as originators of the litigation, *should be paid a liberal fee by Mr. Pierce.*

I left the four gentlemen in Mr. Henry's office—Mr. Pierce, Messrs. Henry & Stribling and Mr. Bailey. When I left these gentlemen at that time, Mr. Henry asked me to meet him and Mr. Stribling that night,—I was quite busy at the time,—at the Pacific Hotel. I did so. We three had a conference and they told me, "That after I had left, they had discussed the matter in detail, or more in detail with Mr. Pierce, and that they had from him a proposition;" that proposition was to pay to the State—it is simply a repetition of what they mentioned that morning, and said they had gathered so and so. That night they said he would pay \$10,000 or \$12,000, and would pay them an extra fee. I stated to those gentlemen at the time, that so far as I was concerned, I could not agree to any proposed compromise, irrespective of the amount of the judgment. *I was opposed to any fee being paid by Mr. Pierce*, outside of the statutory fee. They were more familiar with it than I; they had brought the suit; that it had been hanging fire with nothing being done and ordinarily I would

be disposed to yield to their judgment of a proper compromise, but I could not do so under the circumstances. I told them we cannot compromise at all. The thing was declared off. We could not compromise at all *with extra fee proposition*.

Q. Were you willing to compromise, providing they could agree upon the fee?

A. Yes, sir; I made a statement, that considering the amount involved, that I thought \$25,000 was small enough and would not be an unreasonable amount. That night Mr. Pierce went home. I did not see any more of Mr. Johnson.

Q. Where was Mr. Bailey stopping?

A. At the State House.

Q. You did not see him after the conversation in the afternoon?

A. I think I did. I didn't talk with him. *I saw Mr. Bailey and Judge Scott with him. I think Mr. Bailey had Judge Scott with him at supper that night at the State House.*

In the second conference held in Mr. Henry's office [June 1st (Friday), 1900], (Mr. Henry being at that time in Washington) Mr. Pierce stated that he had adjusted matters satisfactorily at Austin—happily, I think, was the word he used—and that the litigation in Waco was all that was troubling him, and his explanation was that *I seemed to be the only stumbling block*. He said he was a little surprised not to be able to compromise the suits; *that he had been informed by Mr. Bailey that the proposition, that he finally made, would be accepted*. I stated to him that I didn't know by what authority Mr. Bailey had made that statement, for I had not seen Mr. Bailey nor communicated with him, nor him with me after the first visit. Judge Scott was present at another conference with Judge Clark and Mr. Johnson. Judge Clark and Mr. Ballinger were his attorneys in that litigation at Waco. Judge Scott made the statement that he had said to Mr. Bailey, as to the civil suits, he would approve the proposition made as far as he was concerned.

Q. What were the specific charges against the Waters-Pierce Oil Company for which these civil suits were brought?

A. They alleged that the Waters-Pierce Company was a part or branch of the Standard Oil trust, and also charged that the methods of the Waters-Pierce Company in this State was to smother competition and so on.

JOHN L. LITTLE TELLS OF BAILEY'S FIRST INVESTIGATION.

Hon. J. L. Little, a member of the Investigation Committee of 1901, voluntarily came to Austin and testified before the second Investigation Committee in 1907 (Report, pages 366-373), on cross-examination, as follows:

I do not think we asked Judge George Clark to come down and testify. [At the former investigation.] I do not remember whether we made an effort to get the testimony of John D. Johnson or H. C. Pierce. No we did not subpoena Mr. Stribling, although his name

was freely used in connection with the testimony given by Mr. Thomas and Mr. Bailey. There was not very much at that time to base an investigation upon. I don't think the Committee asked for Judge Scott to come down and testify.

Q. Do you remember this language as attributed to Mr. Bailey at that time as is shown by page 154 of the House Journal [Twenty-Seventh Legislature] of that session: " * * * *I hope that this Committee will not make it necessary for Mr. Henry to come here?*"

A.—I do not recall those words, but if that is in the House Journal I guess that is correct. [In this connection it is very interesting to note that Mr. Bailey not only opposed Mr. Henry being called as a witness before the Twenty-Seventh Legislature but, as shown by page 379, Investigation Committee Report, 1907, Mr. Bailey again opposed the Committee waiting to hear Mr. Henry's testimony. Placing his opposition, however, on the ground that he, Bailey, ought not to be detained away from Washington until Mr. Henry could come and testify. It will be remembered that Mr. Henry did come and testified, however, and among other things said that he showed Mr. Bailey the original Standard Oil Trust Agreement to which the Waters-Pierce Oil Company, or the majority of its stockholders, were parties. *This is perhaps the real reason Mr. Bailey did not want Mr. Henry on the stand.*]

No, sir, Mr. Bailey did not tell the Committee [in 1901] anything about having borrowed \$3,300 from Mr. Pierce on the occasion of their meeting in St. Louis, nor did he say anything about having received any other loans from Mr. Pierce. The Committee had no other way of finding it out that I know of. I am sure I did not know anything about that matter. Our Committee meetings were all held publicly. Any one could be present. [Not so, however, with the Committee of 1907. They must needs conduct their whitewash of the great Senator behind closed doors, so far as the public was concerned. It would have been too bad to have exposed their immaculate Senator to the humiliation of a public inquiry open to the citizens of Texas—at least they seemed to think so.]

METHODS OF BAILEY WHITEWASH COMMITTEE OF 1901.

Hon. A. T. Cole, a witness for Mr. Bailey and a member of the Investigation Committee of 1901, testified, pages 600-602 (Bailey Invest. Com., 1907), in part as follows:

The D. A. McFall bill, before the 27th Legislature, related to the revocation of the permit of the Waters-Pierce Oil Company to do business in Texas. After the introduction of that bill in the House—I suppose about a week—I saw Senator Bailey in Austin after the bill was introduced into the House, down at the Driskill hotel, and had a conference with him. The reference he made to the bill was that it was simply a legislative declaration of a revocation of that permit, and that it was not good, would be without force, and that the only thing in it was a political thrust at him—an effort to appeal to

those who were opposed to corporations to get a change in the vote of the House; that is, an expression that would appear to go against him. [At this point the witness was about to relate a conversation with Hon. D. A. McFall, deceased, to which Mr. Cocke objected for the reason that the Committee had not allowed him to introduce testimony concerning conversations with the elder Suggs, deceased, that would seriously implicate Mr. Bailey as practicing for pay or loans before the Departments.]

Mr. Cocke (to the Chairman)—You mean to say now that he can state anything he said to Mr. Bailey that McFall had said to him?

The Chairman—Any conversation he had with Senator Bailey.

Mr. Cocke—Even if it states what Mr. McFall, a dead man, said?

The Chairman—Yes, sir.

The Witness—I think he [Bailey] said that he did not give a damn about it, so that they would cut that part out of it that would be a reflection on him. [That would have been the whole bill because the purposes of the bill was to exclude Bailey's fraudulently re-admitted client—the Oil Trust.]

We permitted hearsay testimony of any kind. [Before the Committee of 1901.] There were no rules of evidence—that is, so far as the rules of law applied—at all. I do not think there was an objection raised to testimony at all in the Committee. [They did not have the testimony to incriminate Bailey at that time. He made a great show according the investigation of 1901. Not so before the Committee of 1907 when every artifice known to his lawyers and every trick of partisanship was resorted to to suppress the truth.]

We did not have Mr. Pierce, nor Mr. Francis. Nobody asked for them, and we concluded it was not necessary. We did not have Judge Clark from Waco nor Mr. Henry; made no efforts to get St. Louis testimony. My recollection is that we knew nothing more about that, further than it was charged that he got the Grapevine ranch as a fee for that, and the investigation we went into was to see how Mr. Bailey got the Grapevine ranch. [And yet they did not even call for Francis who bought the ranch for Bailey, at the time that he was seeking Bailey's support for the St. Louis Exposition.]

BAILEY OPPOSED DEPOSITIONS IN 1901.

I think Mr. Bailey objected to our taking any depositions; he stated that he wanted the witnesses before us. I think perhaps the McFall Resolution probably did originally provide for depositions.

COMMENT ON THE INVESTIGATION COMMITTEE OF 1901.

While it is true that the Investigation Committee of 1901 had only a limited fund of information upon which to base a thorough investigation, it is to be noted that they confined their inquiry to Mr. Bailey whereas they were instructed to carefully and thoroughly investigate "all the facts connected with, incident to or surrounding" the fraudu-

lent readmission of the Waters-Pierce Oil Company to do business in Texas in 1900.

Mr. Bailey had everything his own way before that Committee. He did not then require the services of a lawyer or lawyers, his popularity was great, his monetary dealings with Pierce unknown and it was an easy matter for him to successfully and profitably divert an attack on his client, the Waters-Pierce Oil Company, to himself.

It is to be noted that the Committee of 1901 failed to call before it Oscar Stribling or George Clark, both of whose names were prominently connected with the transactions testified about before the Committee. Neither did the Committee make any effort to secure the testimony of H. C. Pierce, J. D. Johnson, David R. Francis or other St. Louis witnesses.

It is due the Committee of 1901, however, to say that, with the light before it at that time, it conducted a more exhaustive and impartial investigation than did the Committee of 1907. The latter Committee might have known or discovered a vast deal more information if the majority of the Committee had really desired it. Being pre-determined, however, to shield Bailey from the beginning, the majority of the 1907 Committee became partizan suppressors rather than investigators of the truth.

BAILEY UNDER OATH IN 1901.

(House Journal, 27th Legislature, pages 157-166).

Mr. Bailey was sworn, at his own request, and testified as follows:

With the permission of the Committee, I will begin at the beginning of this matter. [But did he begin at the beginning? Francis testified in 1907 that he telegraphed Bailey to come to St. Louis, but Bailey does not say so in his testimony of 1901.] Just after the senatorial contest had closed by the withdrawal of Senator Chilton, I started back to Washington. At St. Louis I met Mr. Pierce, [Note that he doesn't say how he came to meet him, whether by appointment or accident]. who presented me a letter from David R. Francis.

* * * I said if you can make it plain that you are not a trust [he had failed to make it plain to the jury and to the courts of Texas and of the nation], and that you desire to obey our laws and conform to our policy, I will undertake to say you will have no trouble about it with our State. [How easy it was to convince him and how natural for Bailey to ask of Pierce a "loan" immediately after he was convinced but about which "loan" Bailey said absolutely nothing in his testimony in 1901, nor anything about his other financial transactions with Pierce between April, 1900, and the time he was testifying in January, 1901, notwithstanding he was sworn to tell "the truth and the whole truth."]

I said to Mr. Pierce: "If you can convince me that your company is not a trust and will agree to come to Texas and take the oath to obey the laws, *I will undertake to say* that you will have no trouble with the officials of the State." He then went fully into the business

and character of his company and after satisfying me that it was not a trust I told him that I intended to return to Texas in a few days on a political errand and while there I would lay the matter before the Attorney-General and the Secretary of State. [The two officers with whom Pierce must deal in getting a renewal or a new permit.]

BAILEY KNEW OF STANDARD OIL INTEREST IN WATERS-PIERCE OIL CO.
OR COULD HAVE KNOWN IT FOR THE ASKING.

The author believes that Mr. Pierce told Bailey at the time the exact relationship between the Waters-Pierce and the Standard Oil Company and that belief is based upon Mr. Bailey's own words, for Mr. Bailey testified openly that Pierce "then went fully into the business and character of the company." Cullen F. Thomas had just sworn: that Mr. Bailey said that the Standard Oil trust were owners of 1,200 shares of the capital stock of the Waters-Pierce Oil Company, "*at one time*." That was not true when Mr. Pierce was in Waco. They did own it at one time, but there is nothing to show that they did own it at that time." Again, Mr. Bailey told the Waco Convention in August, 1900, referring to Pierce's statement to him: "I never owned a dollar's worth of that stock and the Standard Oil Company never owned *a controlling interest in our company*." These three expressions on Mr. Bailey's part go to show that Mr. Bailey did know of the stock ownership in the Waters-Pierce Oil Company by the Standard.

The fact of the connection between the two companies was fully established by depositions then on file in the suits, both at Waco and at Austin; Mr. Henry testified in 1907 that he told Mr. Bailey of the connection in Waco in 1901 and showed Mr. Bailey a copy of the original Standard Oil trust agreement; and the fact of the connection between the two companies had been a matter of congressional record for all the years that Mr. Bailey had been in Congress.

Mr. Frederick Upham Adams, who has been in Texas for several months writing up the alleged history of the Waters-Pierce Oil Co., but, in fact, engaged in a specious plea and play for sympathy in behalf of H. Clay Pierce, makes this admission: "I am unable to ascertain just when the first public announcement was made of the relations existing between the Standard and Waters-Pierce; every well informed oil man knew it from the beginning. It became a part of a congressional document in 1888, at which time the House of Representatives made its first investigation of the trust. You will find it described on pages 301-313 of House Record No. 3112, wherein is contained the Standard Oil trust agreement, which affirms that a portion of the stockholders of the Waters-Pierce Oil Company were members of the Standard Oil Trust. This damning fact was made public in 1888." And Mr. Bailey in his guileless innocence made haste to accept the unsupported word and a liberal "loan" from the then indicted and self-interested oil master, as proof positive in the premises.

SHOULD BAILEY HAVE ACCEPTED PIERCE'S STATEMENT?

Had Bailey, when he called on Attorney-General Smith in the latter's office at Austin, May 1st, 1900, asked Mr. Smith to verify Pierce's statement to Bailey that the Waters-Pierce Oil Company was wholly disconnected from the Standard Oil Co., the then Attorney-General would doubtless have shown Mr. Bailey a certified copy of the amendment of the charter of the Waters-Pierce Oil Company increasing its capital stock from \$100,000 to \$400,000 and which amendment was filed with Secretary of State Hardy when the application was made to that officer for a new permit in September, 1899. Said amendment (Bailey Investigation Committee Report, 1907, page 1041) showed:

Chess-Carley Company, 600 shares.....	\$ 60,000
William H. Waters, 1,200 shares.....	120,000
Trustees Standard Oil Trust, 1,200 shares.....	120,000
<hr/>	
Three thousand shares.....	\$300,000

Mr. Bailey would also doubtless have been shown by Attorney-General Smith from Secretary Hardy a letter to him dated September 5th, 1899, calling attention to the fact that 1,200 shares belonged to the trustees of the Standard Oil Trust and that 600 shares (being 1,800 out of 3,000 shares) belonged to the Chess-Carley Company, and alleging fraud and stock ownership in violation of law. Attorney-General Smith doubtless would also have shown Mr. Bailey his reply to Secretary of State Hardy of date September 5th, 1899, referring "to the fraud which it practiced against the State when it applied for its permit to do business on July 6th, 1899," and to the further fact, in said letter set out, that H. C. Pierce, according to the brief of his own attorneys, had "declined to state how much of the capital stock was owned by the Standard Oil Company and did not state that the Standard Oil Trust was one of its incorporators, and said nothing about the Chess-Carley Company being one of the incorporators and owners of its capital stock."

Mr. Bailey would have seen from Attorney-General Smith's letter, just referred to, that he advised the Secretary of State that "the proposed charter would therefore show upon its face that it is void and not to be filed." If Mr. Bailey had wanted to know the truth about the Standard Oil affiliations of the Waters-Pierce Oil Company and he had interrogated Attorney-General Smith instead of accepting Pierce's "loan" and word for it, Mr. Smith would doubtless have told him of the following facts which are incorporated in a letter to Secretary of State Hardy from the Attorney-General, dated July 20th, 1900, (Bailey Investigation Committee Report, 1907, page 1040), describing the incidents of the previous year as follows: "In September, 1899, the attorney for the Waters-Pierce Oil Company came to Austin with a certified copy of its original charter, together

with certified copy of the increase of capital stock, showing who the additional shareholders were, and he asked for a permit to do business in Texas. * * * I retained a copy at that time of said charter, together with the certificate of increase of capital stock showing who the additional shareholders were. * * * Chess-Carley Company, I have been reliably informed, was a corporation co-operating with the Standard Oil trust in other States and the above facts show that the Standard Oil trust paid in \$120,000 of the increased capital stock and the Chess-Carley Company \$60,000, making \$180,000 owned by a corporation and by a trust in the increased capital stock of the Waters-Pierce Oil Company."

Further on in the same letter Attorney-General Smith says also: "that when the application was made to file the new charter on May 31, 1900: "Mr. Pierce stated that he had actually and in good faith purchased and was the owner of the stock held by the Standard Oil Company and the Chess-Carley company in the old company, and that said companies owning said stock had now no connection whatever with the new Waters-Pierce Oil Company."

In his testimony given during the investigation held in 1901, Attorney-General Smith was asked (page 1,028, 1907 report): "You didn't let this Waters-Pierce Oil Company in until they had fully satisfied you that they were at least not a trust?" and replied: "*They had changed their policy.* [Did Smith get this information from Bailey?] They had come with a new charter. [And Bailey said something about "clean hands.]" I would like for the Committee to understand this, that the statute says the Secretary of State shall issue the permit when they deposit their charter." This is his entire answer to the question and was so clearly a refusal to affirm the statement that the applicant had satisfied him that it was not a trust, and so explicitly placed the readmissions of the company upon the ground that its reincorporation left no option with the State authorities that the significance of the answer cannot be misunderstood.

* All this goes to show that both Bailey and Smith did know, or Bailey ought to have known, that the Standard Oil Company was dominating the affairs of the Waters-Pierce Oil Company and would likely continue to do so. It further shows that Attorney-General Smith was not satisfied with the arrangement and was constrained, doubtless, in submitting thereto by Mr. Bailey's insistent persuasion through "personal and political influence." Smith likely relied, if he did rely at all, on Pierce's assurances of having purchased the Standard Oil interests, largely through Bailey's importunities and upon Bailey's recommendation of Pierce. Of course the "loan" (?) which Pierce had just made Bailey had nothing to do with the latter's conduct in this matter, nor did the large opening, which Bailey probably saw in the future for him in connection with this rich trust master, have anything to do with his conduct. For Bailey has always said that he was actuated solely by his "friendship for David Francis whose heart lay close to mine."

In the language of that noble Texas patriot, Senator E. G. Senter, of Dallas, let us ask: "Does Mr. Bailey still persist in the hallucination that he investigated the Waters-Pierce Oil Company before he became its redeemer and found it as pure as snow, or will he now confess—upon reflection—that it was all the fault of his credulity and affection for Francis?"

But to continue with Mr. Bailey's story to the Twenty-Seventh Legislature (Investigation Report, 1901, H. J., p. 158):

I intended to stop at Hilsboro to talk with my friends there and telegraphed Mr. Stribling, of Waco, to meet me at Hilsboro, saying that he could return to Waco that same night on the Flyer. [And thus would they have been enabled to have caucused together in secret conference, the one a Congressman and then nominee for the United States Senate, the other a representative of the State of Texas in its suit against the trust masters.] * * * I continued my journey to Waco. I canvassed the political situation with some of my friends there *and also conferred with the interested parties representing the Waters-Pierce Oil Company litigation at that place.* I then came on to Austin. * * *

BAILEY REACHES AUSTIN BY A CIRCUITOUS ROUTE.

Hon. Phil H. Clements, of Goldthwaite, Texas, both then and now a member of the Texas Legislature, related to the author the following interesting facts concerning Mr. Bailey's appearance in Austin on the morning of May 1, 1900:

Mr. Clements was in the I. & G. N. passenger depot at Taylor, Texas, in the early morning—just before day—of that day. The M., K. & T. R. R. tracks ran at that time due south from Waco to Taylor crossing the I. & G. N. tracks a few hundred yards to the east of the I. & G. N. passenger depot at Taylor.

While Mr. Clements and one or two other gentlemen were waiting for the arrival of the south bound I. & G. N. train, a portly and well dressed individual entered the passenger depot *from the track side.* Apparently he had not come in from a hotel in Taylor *but to all appearances had walked down the I. & G. N. track from the crossing of the M., K. & T. track.* Why?

A drummer said to Mr. Clements, as the pretentious stranger laid a fifty dollar bill on the ticket window and asked for a ticket to Austin, "he must be a preacher." "No," said another, "A preacher would not have that much money." They then concluded that the pompous stranger must be "a politician." Some other small talk was indulged in and they concluded that a politician, like a preacher, would not likely be carrying fifty dollar bills (they were evidently unfamiliar with the practice of "political loans"), around with him, so they finally facetiously decided that the handsome stranger must be "a train robber." (Of course Mr. Clements knew all the time who it was but humored the joke.) Presently the train rolled in and all got aboard. The ticket man was unable to change the fifty dollar bill so

the stranger kept his fifty dollars and when the conductor came through handed the latter a railroad pass. The drummer remarked to Mr. Clements that their "train robber" was carrying railroad passes, whereupon Mr. Clements said: "O pshaw! that's Joe Bailey."

Mr. Clements says that Bailey came on to Austin and registered at the Driskil hotel; that on the same morning Pierce and Johnson, in Pierce's private car, arrived in Austin, *having come up from Elgin where the H. & T. C. makes connection with the M., K. & T.* That Pierce's private car remained in the H. & T. C. yards while Pierce and Johnson and Bailey remained in Austin and until the three returned to Waco.

This would indicate that Bailey came down the M., K. & T. from Waco with Pierce and Johnson and at the crossing of the M., K. & T. and I. & G. N. tracks, east of Taylor, left Pierce and Johnson in order to reach Austin over the I. & G. N. and thus avoid "the appearance of evil." "A guilty conscience needs no accuser."

It was the author's intention to put Mr. Clements on the stand in proof of the above described incident, but the Committee closed the investigation summarily and Mr. Clements had gone home for a day or two at the time. He is a man of unquestioned veracity, however, and will verify the above statements at any time.

BAILEY, PIERCE AND "CLEAN HANDS."

Referring, in his testimony before the Committee in 1901, to his conference with Governor Sayers, Attorney-General Smith and Secretary of State Hardy, Mr. Bailey says: "I concurred in his [Smith's] opinion that the Waters-Pierce Oil Company, then existing, could not be permitted to conduct its business in our State. I then told Mr. Pierce that the only way left for him to do was to dissolve that offending corporation and organize a new one and come back into this State with clean hands, obey our laws, and they would have no further trouble with our people. * * * I told him [Pearce] that the only thing he could do was to dissolve the offending corporation, organize a new one, come into our State with clean hands and obey our laws." In his open letter on December 6th, 1906, to the Attorney-General of Texas, and replying to the latter's declaration that the Waters-Pierce Oil Company reentered this State under Bailey's "guidance and direction," Mr. Bailey said: "If you can find even one honorable man in the United States who will swear that I was ever consulted about the dissolution of the old company or the organization of the new one, or that I ever spoke to any man, or that any man ever spoke to me about the issuance of a permit under which the Waters-Pierce Oil Company reentered this State * * * I will resign my seat in the Senate." This is in direct conflict with his testimony in 1901, above quoted, wherein he said that he "told Mr. Pierce that the only thing left for him to do was to dissolve that offending corporation and organize a new one," etc. It is also in direct conflict with his statements at the Waco Convention, August 8th,

1900, referring to Mr. Pierce, in this language: "He took my advice. * * * He went and returned with a new charter, procured at an enormous expense—more than \$5,000."

BAILEY CONTRADICTS HIMSELF AGAIN.

In his testimony in 1901 (House Journal, page 160), Mr. Bailey said: "I will say that even if I had believed that the Waters-Pierce Oil Company had been a trust and they could have convinced me that they were willing to disorganize the unlawful trust [and that is just about what Pierce told him he would do] and organize a lawful and useful trading corporation, I would have assisted them in their reestablishment in our State."

In his speech to the Waco Convention, August 8th, 1900, (Galveston News, August 9th, 1900), Mr. Bailey said: "He, [Pierce] offered to employ me as his attorney. I said, you have not got money enough to secure me. I would not be employed for such a purpose. If you want to abide by the law, you won't need a lawyer."

In speaking of the matter in his testimony in 1901, Mr. Bailey said: "I had the assurance of Mr. Pierce, who is an honorable man, that his company was not a trust. * * * In the Secretary of State's office, Mr. Pierce has filed a very comprehensive oath, required by our anti-trust act, and if his company is a trust he is subjecting himself to conviction and imprisonment for perjury. [That was six years ago. Mr. Bailey has never said anything since about helping the people of Texas convict his friend Pierce of perjury, although it is now universally admitted that his company is and always has been a trust.] It is not reasonable to suppose that a man of his wealth would perjure himself and take chances of the penitentiary for the sake of adding a little more to what he already has. I do not think that a rich man is any less apt to swear a lie than a poor man, because that is a matter of character and not a matter of wealth. But I do think that a man that already has enough to live in luxury and ease is not apt to take the chance of being deprived of his liberty, and rendered infamous by a conviction for a felony, simply for the sake of the small difference [600 to 700%] in the sale of oil under the methods now employed by the Waters-Pierce Oil Company and the methods which they could employ if they sought to evade or violate our law. Not only would the consideration of Mr. Pierce for his character and personal safety restrain him from taking our anti-trust oath if his company were a trust, but common business prudence would likewise forbid it. If his company is a trust, every time it sells a package of oil in this State it is liable for a penalty of \$200, and as it probably sells 500 packages in Texas every day, it would be penalized in the sum of \$100,000 every business day in the month. This would aggregate over two million and a half dollars a month, or more than thirty million dollars a year; and no business could afford to incur such a risk. [But he did "incur the risk" and Bailey is now doing what he can (subrosa, perhaps) to help him avoid the penalty.]

"I do not believe that it is within the reign of common reason that

a man would come to this State and take the oath that his company is not a trust, thus swearing a lie; and—

(By Mr. Decker).

Q. That oath only lasted over a period of two days.

A. That would be long enough to damn his soul forever, and put him in the penitentiary for years. If a man would swear to a lie for two hours, he would swear to it for two years." (H. J., 1901, p. 161).

Query: In view of the fact that Pierce did swear falsely by concealing the real truth concerning the trust relations of his Company, and if Bailey did likewise in failing to disclose "the whole truth" in his sworn testimony before the 27th and possibly the 30th Legislatures of Texas, the question naturally arises: Did Pierce and Bailey, measured by the proposition Bailey laid down above, "swear" sufficiently long to "damn their souls forever," and will they ever pay the State the penalty of serving in the "penitentiary for years?" Pierce's swearing lasted, perhaps, a minute in making the anti-trust affidavit; Bailey's swearing continued for several hours in 1901 and for several days before the Committee in 1907. But as comparisons are said to be odious further parallels and deductions will be left to the imagination of the reader.

BAILEY'S IDEALS RADICALLY CHANGE.

That Mr. Bailey's ideals have been radically changed by the gold cure of the money masters or that he was insincere in his expressions in 1901 is conclusively shown by his own language then and now. In his testimony before the Investigating Committee of 1901 (House Journal, page 162), Mr. Bailey said:

"It is not pleasant to feel compelled to make a public statement of my private business affairs, and it is still more disagreeable to feel compelled to state the private business arrangements of other gentlemen. But a man cannot stand upon a question of that kind when his integrity is assailed; and I have deemed it a duty to myself, my friends, and, most of all, to my party and to my State, to trace every dollar of the money paid for and received from the land, cattle, horses and mules purchased by me from Mr. Gibbs, so that no honest man can ever again misunderstand the transaction, and no scoundrel can ever again successfully misrepresent it."

While on the stand, or stump, before the Investigation Committee of 1907 Mr. Bailey was asked this question:

Q. Senator, would you consider that it was proper to state what your fee was in the Central, in the Tennessee Railroad matter?

A. *I don't think that is anybody's business.*

If it was his duty, and he so declared, when his integrity was assailed in 1901, to make a clean breast of all his affairs (which he did not do even then) was it not equally his duty to state frankly and fully his connection with all the matters under consideration by the Investigation Committee of 1907?

HONEST MEN AND PUBLIC SERVANTS.

"Knowing that as an honest man," said Mr. Bailey to the Committee in 1901 (House Journal, page 163), "I could make nothing in the public service, my only hope of a modest competence to protect me against an old age of poverty and want was that I could find some transaction like this [\$100,000 Gibbs Land Deal] and by careful management save something out of it." To the Senate of the United States and to the world Mr. Bailey declared, in the summer of 1906 while replying to the *Cosmopolitan Magazine* article entitled "The treason of the Senate," Mr. Bailey expressed an exactly opposite view to the one just quoted. His words were these: "I despise those public men who think they must remain poor in order to be considered honest." In 1901 he knew "that as an honest man he could make nothing in the public services," but having grown immensely rich in the five intervening years of his Senatorship he has come to "despise" the salutatory ideal expressed while he was yet poor in worldly wealth but rich, indeed, at that time, in the admiration and confidence of his countrymen.

JOE SIBLEY, JOE BAILEY AND THE STANDARD OIL COMPANY.

In his testimony before the Investigation Committee of 1901, (House Journal, page 162), Mr. Bailey paid the following glowing tribute to Mr. Joseph Sibley, sometimes Democrat and sometimes Republican, but always apparently for Joe Sibley and the Standard Oil bounty and booty. But here is Mr. Bailey's tribute: "My enemies have not been content to stop with dragging Mr. Francis, who was connected with me in a perfectly legitimate business transaction, into the political feuds of this State, but they have, also, attempted to stain the Hon. Jos. C. Sibley with their miserable accusations; although, as is shown by the letter, which Mr. Sibley addressed to the Speaker of the House, he does not even know what the exact nature of the quarrel is. In his letter, he speaks of his having been charged with procuring my assistance for the Standard Oil Company, showing that he does not know enough about the matter to know that the controversy has arisen over the readmission of the Waters-Pierce Oil Company. [Sibley doubtless knew they were the same concern in effect.] I have known Mr. Sibley for several years, and I never knew a truer, or more honest man; and I cannot express my indignation at having him assailed before the country as an agent of corruption, simply because I happen to enjoy the honor of his friendship."

The following memorandum concerning Bailey and Sibley was furnished the writer by W. O. Davis, of Gainesville, Texas, before the charges were filed against Mr. Bailey: "Congressman Sibley, of Pennsylvania, I understand, is connected with the Standard Oil Company, and since the indictment of the Standard Oil officials in Texas, they have doubtless had an eye on Texas affairs. Sibley owned a race horse called 'Electic Belle' which cost him about \$20,000. He transferred this horse to Bailey for love and affection. _____, of Gainesville, knows about the gift of this horse by Sibley to Bailey."

SIBLEY A STANDARD OIL MAN.

J. P. Gruet, Sr., (Bailey Investigation Committee Report, 1907, page 273), testified concerning Mr. Sibley as follows:

"He was connected with the Perfection Oil Company, a Standard Oil Company. This continued during my time with the Waters-Pierce Oil Company [from 1890-1905]. I do not know that he has ever withdrawn from it."

BAILEY CONFESSES THAT HE IS A GREAT LAWYER.

While on the stand, or stump, before the Bailey Suppression Committee of 1907 (Committee Report, page 973-974), Colonel Jenkins was questioning Mr. Bailey as to why the Standard Oil Company would employ him at a fee of \$2,500 for an opinion as to whether or not they might do business in Texas, when "they had in their constant employment very able attorneys," Mr. Bailey gave the following self-estimate of his great ability as a lawyer: "It is a contemptible insinuation that a lot of small lawyers have been filling this State with, that I was no lawyer. I practiced law, I was at the head of my bar when I was 25 years old. [W. O. Davis, of Gainesville, an attorney of unquestioned veracity, says that Bailey completely frazzled out as a lawyer there and ceased from even a pretense of practicing law for about a year before he ran for Congress and disposed of his law library both because he had no use for it, having no practice, and because he had become impecunious in spite of the \$100,000 trust funds that he had wasted for his aunt and uncle.] * * * My standing in the Senate as a lawyer is such that you know and the country knows, and to have people suggest because I had not been in the court room every day, I was not qualified as a lawyer to advise, is rather a singular thing. * * * There has never been an hour when my legal opinion on a question of law would not have been treated with decent consideration anywhere in this country."

When Senator Decker was examining Mr. Bailey before the Investigating Committee of 1901 (House Journal, page 164), Mr. Bailey had the following to say concerning his lack of knowledge of State affairs in general and of our anti-trust law in particular: "Mr. Decker, I devote myself to the study of Federal questions and I do not consider my opinion on State matters entitled to very great weight."

In spite of the above frank admission to the Committee of 1901, we find Mr. Bailey saying to the Committee of 1907 (Committee Report, page 974), in justification of the Standard Oil Company calling on him for an opinion as to State laws: "I think it would be rather unusual for any business with large property or large interests to venture upon a question or policy of that kind without taking the opinion of some lawyer *supposed to be especially familiar with the laws of the State in which they sought to operate.*" This is why, he would have us believe, the Standard Oil Company needed other legal

advice than from their regularly retained lawyers throughout all of the States, including, at that time, Clark & Bolinger of Texas.

BAILEY AND THE SECURITY OIL COMPANY.

It is an interesting fact that the Security Oil Company was organized at the instance of S. G. Bayne, of New York (connected with the Seaboard National Bank and the go-between in the transmission of the Waters-Pierce Oil Company dividends to the Standard Oil Company), with the assistance of Mr. Bailey and supposedly at the insistence of Standard Oil People. This, too, apparently just after Bailey advised them *that they could not do business in Texas openly*. In this connection note the following language from Mr. Bailey (Investigation Committee, 1907, Report, page 974): "I think the Standard Oil Company were in good faith seeking an opinion. * * * I think they were, I really think—you know there had been a great oil field discovered down here by Beaumont and I think they wanted to know if they could safely come here and engage in business. Evidently with the lights now before me, I think what they wanted to know was if they could come here and *openly engage in business*."

This language on Mr. Bailey's part in connection with his admitted opinion to the Standard Oil Company for which he received a fee of \$2,500, indicates very strongly that Mr. Bailey advised them that they could not "do business openly," but would have to do it covertly and secretly, under the guise of another corporation—the Security Oil Company, for example.

J. P. Gruet (Bailey Investigation Committee Report, 1907, p. 273), testified:

I know S. G. Bayne by hearsay. The Seaboard National Bank [S. G. Bayne, president] is located next door to 26 Broadway.

BAILEY DEFENDS THE WATERS-PIERCE OIL COMPANY.

Mr. Bailey concluded his statement to the Investigation Committee of 1901 (House Journal, page 164), with the following words in defense of the Southwestern arm of the Standard Oil Company: "The men who are attacking it [The Waters-Pierce Oil Company] have searched this State in an effort to find a violation of the law by this Company without being able to find a single one. [That remained for Davidson and Lightfoot and the Travis County Jury in 1907.] I do not believe that these people will ever *again* willfully violate the law. I know that they have issued peremptory instructions to their agents to obey all the laws of this State in letter and in spirit."

He must have kept himself well informed with reference to the Waters-Pierce Oil Company and its business.

After inviting "any respectable gentleman in the audience" to ask him questions, Mr. Bailey retired from the witness stand before the so-called Investigation Committee of 1901, thinking, doubtless, that he had won a great triumph and that his then forthcoming exonera-

tion would be the end of the complaint against a servant of the people serving the enemies of the people. But such was not to be the case.

DEMOCRACY VS. TRUSTS.

The Kansas City platform of the Democratic party, 1900, declared: "We pledge the Democratic party to unceasing warfare, in Nation, State and City, against private monopoly in every form. Existing laws against trusts must be enforced and more stringent ones must be enacted." Made bold, however, by his brilliant, though base escape from the toils of public condemnation in 1900-1901, Senator Bailey thereafter proceeded with impunity and almost with brazenness to engage in the service of the trust masters from which he has reaped a rich reward in filthy lucre. As a result, however, millions of his fellow countrymen, and especially the poorer classes of his constituents, have felt the noiseless and sometimes unseen hand of the private monopolist as it has filched, through the faithlessness of their "misrepresentative," their scanty earnings and bare existence.

While Bailey has frequently reveled beneath the glare of wealth and luxury with "My dear Pierce," in his handsomely fitted suite of eight rooms at the Waldorf-Astoria, New York, unnumbered thousands of poor, though honest Texans, have sought to educate their children, and to teach them "that a man cannot serve two masters," by the dim flicker of *oil lamps*, for which they have paid tribute to Bailey and his oil barons. And this is true of the people, who, unable to build houses of brick, mortar or stone, must dwell only in shelters of shingles and shanties of pine purchased from the lumber trust of Bailey's and Kirby's combine.

TEXAS REPROVED "JOE" IN 1901.



I gave you fair warning once before, young man.—*Indianapolis News*.

CHAPTER X.

**SIGNIFICANT POLITICAL DEVELOPMENTS OF 1906—
ROOSEVELT-BAILEY-ALDRICH AND THE RATE BILL.**

The freedom and vehemence with which Mr. Bailey denounces those who differ with him as "liars" was characteristically exhibited in Congress, May, 1906, and even the office of President of the United States seems to inspire in him no respect for the occupant thereof, either politically or from the standpoint of veracity.

"I think I am safe in saying that former Senator Chandler wrote to a distinguished member of the administration that he and Senator Tillman were both suspicious of Senator Bailey and that this letter was undoubtedly shown to President Roosevelt himself. [It will be remembered that while Senator Tillman at Dallas, Texas, in October, 1906, told the people of Texas that he had confidence in Senator Bailey, yet in the same connection he remarked: "I watched him like a hawk." If his confidence was unbounded, why should he have "watched" a Senator from Texas "like a hawk?" Texas Senators should not require "watching."] In a personal conversation, the word was carried from the Tillman camp that Senator Bailey was suspected of holding secret conferences with Mr. Aldrich himself, and by skilful support of his anti-injunction amendment, Senator Bailey had intentionally split up the Democratic caucus and Tillman could not deliver anything like the unanimous Democratic vote for anything at all, whether approved by the administration or not.

"That Senator Bailey was under suspicion by Senator Tillman and other prominent Democrats is positively known. [Tillman said himself that "he watched him like a hawk"]; that there was some ground to believe that he or other prominent Democrats were in conference with Senator Aldrich almost all the time, and that they were being tempted to unite with the Aldrich crowd to down the president [in securing effective railroad rate regulation and preventing rebates to the Standard Oil Company and others] is susceptible of proof if the distinguished people interested shall see fit to produce the documents."—*Galveston News*, May 17, 1906.

Whether or not Bailey was in secret caucus and league with his old Currency-Bill-friend, (of 1903), Aldrich, whose son married a daughter of John D. Rockefeller, the author is not sure, but the following Baileyesque denial strengthens rather than weakens the strong suspicion: "I denounce the publication as an unqualified, deliberate and malicious lie [malice seems always in his opinion to actuate those who disagree with him, whether in Washington or in Texas]. I denounce that correspondent as an unqualified, deliberate and malicious liar, whoever he may be and however big the

office he holds."—Bailey in a speech to the Senate, *Galveston News*, May 17, 1906.

That Mr. Bailey was greatly agitated was perfectly evident. All color had gone from his face and he was suffering from the strain of great emotion. Is it possible he was shuddering lest his whole long concealed connection with Standard Oil might thus be exposed? Later in the day Mr. Bailey exclaimed to the Senate: "It seems to me conclusive that this slander proceeds from the *White House*. * * * The miserable wretch who communicated to those newspapers and who sought through them to communicate to the country a slander on me which people might discuss, rather than the issues that have been raised, is unfit for his high office and the man who perpetrated that infamy will pay it with his position. * * * [Threatened destruction of his opponents began early in 1906]."

In commenting on this affair, the *Galveston News* correspondent at Washington states that these charges against Senator Bailey not only emanated from the White House but that President Roosevelt was dissuaded from verifying them by Secretaries Taft and Root.—*Galveston News*, May 17, 1906.

Whether or not Mr. Bailey secretly supported Aldrich and his crowd by trying to divide the Democratic side by offering his anti-injunction amendment to the rate bill, will perhaps never be definitely known, but Texas deserves a Senator who will so conduct himself as to preclude the possibility of such shadows, suspicions and doubts attaching to him.

BAILEY'S SUPPORT OF THE ALDRICH CURRENCY BILL IN 1903.

Referring to the Aldrich Currency Measure, of 1903, supported by Bailey alone on the Democratic side, Senator Morgan of Alabama (and his memory was left to the South as a heritage above reproach or suspicion) said: "In my estimation, it is the most far reaching and dangerous measure connected with the finances of the country that has been before the Senate since I have been in this body. Mr. President, I shall close what I have to say, having spoken much longer than I expected, by saying that *this is the most dangerous and the most invidious, the most unnecessary and the most unjustifiable bill that I have ever spoken to on this floor.*" (Congressional Record, pages 3161-3166).

Senator McLaurin of Mississippi said, concerning this same bill:

"As I understand this bill, and as it appears to me, it is not a bill to give more money to the people of the United States; it will not—if my judgment is not at fault—give any money to the people of the United States; it takes out of the pockets of the people of the United States their money and practically gives it to the banks of the country, and not all of the banks, but the favored banks of the country." (Congressional Record, March 2, 1903, page 3167.)

Mr. Patterson, Senator from Colorado, called attention to the fol-

lowing quotation from the *Evening Star*, which he called an Administration paper, in full sympathy with the political views and the financial policy of Senator Aldrich:

"Interest centered about the Senate situation during the early part of the day. The question heard on every side was, 'Would the Aldrich financial bill pass?' No measure of legislation of recent years has excited more attention in Congress than the pending financial measure which bears Senator Aldrich's name. Strong pressure from influential financial and corporation quarters is being exerted upon Congress to get the measure through. The banking interests of the East, and therefore of New York, are putting every pound of pressure they can bring to bear upon both houses of Congress. This is supplemented by pressure from the great railroads of the country, whose bonds would be favorably affected by the legislation. The only opposition comes from a faction of Democrats."

Mr. Bryan, in the *Commoner*, reviewing the measure, said substantially that the bill evidenced the fact that the Republican party—it being a Republican measure—was still in the grasp of Wall street. If he was correct in that conclusion, the inquiry naturally arises, in whose grasp was Mr. Bailey, as he and the Republicans were acting together on that measure?

Mr. Bailey's connection with the Aldrich bill has been pointed out in reply to his oft-repeated assertions that he had always voted right and talked right. To reach the conclusion that he voted right and talked right in this instance, one must differ from Senator Morgan, who described the Aldrich bill, for which Bailey voted and talked, as a bill, "the most dangerous, most invidious, the most unnecessary, and the most unjustifiable to which he had ever addressed himself on that floor."

Senator Patterson called attention to the fact that in order to secure its passage, "strong pressure from influential, financial, and corporation quarters was being exerted upon Congress to get the measure through. The banking interest of the East, and therefore of New York, are putting every pound of pressure they can bring to bear upon both houses of Congress. This is supplemented by pressure from the great railroads of the country, whose bonds would be favorably affected by the legislation." If Mr. Bailey was right, all of these statements must be wrong, and Wall street, and the great railroads must for once have organized themselves into a committee to see how the tribes of men may prosper.

BAILEY'S BOASTED PIPE LINE AMENDMENT.

"I helped to make the pipe lines of the Standard Oil Company common carriers, and to bring them under the jurisdiction of the Interstate Commerce Commission. [See Bailey's statement in *Dallas News*, of January 4th, 1907]." On June 29, 1906, Mr. Bailey said to the Senate: "I myself had nothing to do with bringing them, [the pipe lines] within the provisions of the act."

Mr. Bailey's speech of June 29th, 1906, discloses this fact very clearly: That no pipe lines were affected by the rate bill, except such as had been carrying oil *for hire*. It is not believed that it can be shown that any of the Standard Oil pipe lines have been carrying *oil for hire* and if they do not it is idle for him to say that he imposed any burdens on the Standard Oil pipe lines, because he did not. A perusal of the Congressional Records at the time will disclose the fact that the pipe line provisions were eliminated on account of the clamour raised by the independent oil companies and not by any influence of the Standard Oil Company. No one will seriously suppose for a moment that if the Standard Oil Company had been opposed to bringing pipe lines within the operation of the act (if the act as drawn should in fact affect the company) that it would have been done without opposition from Senator Aldrich. The fact that he was silent on that proposition proved conclusively that they were not involved.

J. P. GRUET, JR., TESTIFIES ABOUT FAMOUS FLATAU LETTER, ETC.

J. P. GRUET, JR., being first duly sworn, testified (Bailey Investigation Committee Report, 1907, pages 290-312) in part as follows:

My name is J. P. Gruet, Jr. I was in the employ of the Waters-Pierce Oil Company just about nine years, ending about March 1st, 1906. I was employed in the accounting department for a number of years, and in the general manager's department, to which I was assigned on January 15th, 1903, by the executive committee.

CAPTAIN FLATAU VISITS WASHINGTON ON PRIVATE BUSINESS.

This visit, that Captain Flatau made to Washington, was on some business for a concern that both of us were working for, [in the summer of 1906] and while he was there I understood that he saw Senator Bailey and had a conversation with him. This is what he told me. In that conversation [between Bailey and Flatau in Washington] I believe there were some remarks made about the articles that had been published in the papers against Senator Bailey, and Captain Flatau came back and restated this conversation to me in a general way in connection with other matters, business matters that we talked over, and *I thought he might be interested in seeing these papers*. [The vouchers. And this is the explanation of how the Gruets came to show Captain Flatau the vouchers in the first place. He was a friend of Senator Bailey originally and was anxious to protect the latter as far as he could and also to save the State of Texas a scandal. For that reason Captain Flatau voluntarily, after seeing the vouchers, offered to write Senator Bailey a friendly letter, not in the interest of the Gruets primarily, *but in the interest of Mr. Bailey himself*. Bailey has since been forced, after the author published a copy of the Flatau letter, the original of which Bailey and his lawyers pretended was lost, to admit that Captain Flatau's purpose in writing the letter was a friendly one, so far as Mr. Bailey

was concerned, and not a blackmailing scheme, as Bailey has often pretended.]

In the first place, [continued Mr. Gruet in his testimony,] if I remember correctly, the suggestion as to the writing of this letter did not come from us. I think that was Mr. Flatau's own idea, and while we did not object to it, we were anxious to have that case settled, and we thought Mr. Bailey might be induced to use his influence with Mr. Pierce to settle it. [This was a frank and truthful explanation of the whole matter.]

At the time the Flatau letter was written, Mr. Flatau expressed his feeling towards Senator Bailey as friendly, and I wish to say that was my understanding of that letter, and this understanding was confirmed. I am very anxious that Captain Flatau's position in this matter be thoroughly understood and if that letter could be published I think that would be very satisfactory. [Bailey had only read two or three lines of it to the public and to the House of Representatives in Austin and repeatedly failed to produce the letter before the Committee when it was demanded, saying it had been lost or could not be found.]

This conversation I had with Mr. Flatau was mostly about business. He recited the conversation that he had with Mr. Bailey. I cannot remember just exactly what it was but the impression I carried from that talk, was that he was not unfriendly to Mr. Bailey. This is simply what he told me, that he had talked with Mr. Bailey some on the newspaper reports that had been circulated and when he got back to St. Louis he simply looked into them, for reasons, I suppose, friendly to Mr. Bailey. Mr. Flatau dictated the letter. I was not present when he dictated it, nor was my father. I just simply showed the papers to Mr. Flatau and told him that they were likely to become public.

BAILEY MEETS CAPTAIN FLATAU IN WASHINGTON.

The Witness Bailey (continuing on cross-examination p. 981)—

Mr. Flatau was in Washington and somebody, I think it was Congressman Burleson, told me of a conversation he had with a Mr. Cowart, and the conversation was, in substance, what I stated in this letter, copy of which was read here, my letter to Lightfoot. The next day or two I was going to the capitol and I met a gentleman. He joined me and walked along a little while and I did not know who he was at first, and the question turned on Texas, and I had met Mr. Flatau before, and as we walked along a little piece it came to me who he was, and I says, "Flatau what kind of a story is this you are telling around here?" He told me that he did not intend to do anything wrong, but he had heard this and did not suppose there was anything in it, and, "Well," I said, "I know there is nothing in it," and he said, "Now, when I go back, I will find out, I will see exactly what these papers are, I will find out something about it." "Well," I said, "all right, it don't concern me, but do as you please about it."

The thing I had in mind with Flatau was to find out what the Assistant Attorney General of this State was doing going around talking about matters of that kind against me. If they had anything of that kind in their mind, it looks like they owed it to the Democratic people of Texas to say it before the primaries, and this was along, it must have been the 20th of June, because that letter is written the 21st of June and states on yesterday a gentleman told me, and Flatau did tell me that Lightfoot was making that talk and he went back and wrote me this letter. [Upon receipt of Captain Flatau's letter, Bailey immediately wrote Assistant Attorney General Lightfoot and Attorney General Davidson assuring them that they were on "a cold trail."]

BAILEY RECEDES FROM BLACKMAIL CHARGE AGAINST CAPTAIN FLATAU.

In addressing the Thirteenth Texas Legislature on the 17th day of January, 1907, while examining the famous Waters-Pierce Oil Company documents, Bailey drew from his pocket an alleged letter from Captain Flatau, dated St. Louis, Mo., June 26, 1906, from which he read the following language: "I have also read the communications to Mr. Gruet from Texas, wherein they are arranging to and trying to get his testimony and have him in Texas in the near future in the case against Mr. Pierce, of which I know little." (page 874). From the language quoted Mr. Bailey pretended to the Legislature that the production of these documents was a blackmailing scheme. It is significant that he did not read the whole letter to the Legislature nor give it to the press. Throughout the entire investigation the proponent of the charges repeatedly demanded of Mr. Bailey's attorneys that they produce the Flatau letter and put it into the record in its entirety. They made one excuse, then another, and finally they pretended that the letter was lost. The proponent of the charges then secured a sworn copy of the letter from Captain Flatau himself and introduced it in evidence clearly showing that Bailey had been misrepresenting the purpose and contents of the letter. When Bailey was on "the stump" before the Committee, the letter having been already introduced in evidence, he was forced to make the following admission. Note the fact that this admission was forced from him only about thirty days after he had pretended in his speech to the Legislature of January 17th, that Captain Flatau had been a party to a blackmailing scheme. Nothing whatever had occurred in those thirty days to change Bailey's opinion as to Captain Flatau's purposes—nothing except the fact that the proponent of the charges had procured a certified copy of the letter itself and put it in the record which showed conclusively that Bailey had been misrepresenting the facts for political capital.

The witness Bailey (continuing p. 863)—

Mr. Odell: Now, have you made an exhaustive search for that letter up to this time, Senator?

A. Well, yes, sir; I sorted out all the letters—I have a thousand

or probably two thousand letters down there. I didn't go through all of them myself, but I had my stenographer there to go through *one lot of them*, I don't know how many. She reported that she didn't find the letter. * * * I want to say as a matter of justice to Mr. Flatau, that *when I first read that letter* [June 27, 1906], I believed it was an effort to blackmail, and I thought that Mr. Flatau was a party to it. I do not think that now. [Why then did he tell the 30th Legislature that (on Jan. 17, 1907) it was an effort to blackmail?] I think that Flatau was probably trying to do what he thought would save political scandal in the State. I understand, and, in fact, I know, that he is a Texan, and I think probably he was trying to do that. Of course, the fact that he exhibited the letter to Gruet and his son and that Gruet and his son wanted to use it as a means of coercing me to in turn coerce Piercee, is a circumstance that the Committee can consider, *but my belief is now that Flatau was not himself trying to work any blackmail*. I did not answer the Flatau letter at all, because I thought that he was a party to the scheme. I knew they did not have any paper *with my name signed to it* that would embarrass me in the least [because Pierce and Francis had returned to him his \$1,500 draft and his \$3,300 receipt *for the very purpose of returning his signatures*] or that would contradict anything I had ever said to the people of Texas, and consequently I had no apprehension on that score; but if I had known Mr. Flatau was thinking to do me a friendly service, or seeking to save the Democratic party of this State from a scandal and a feud I would have made him a respectful answer to his letter. * * *

CAPTAIN FLATAU WRITES MR. COCKE,

ST. LOUIS, February 23, 1907.

Hon. Wm. A. Cocke, Austin, Texas.

MY DEAR SIR: "The circumstance that prompted me to write this letter [to Bailey] was that I was in Washington City, to meet Mr. Burton, Chairman of the River and Harbor Committee, in behalf of the Trinity River Navigation. Before leaving this City, I was boasting of Mr. Bailey being superior to any member in Congress, and I was challenged by Mr. Gruet, and to back up what he said to me, he spoke of certain documents that would refute my ideas and admiration of Mr. Bailey. He told me of these documents and what they were; stating at the time that Mr. Bailey was connected with the Waters-Pierce Oil Company, and was their chief adviser, and was instrumental in their being allowed to do business in Texas, etc. I met Bob Cowart, while in Washington, and I spoke to him in regard to what I had learned from Mr. Gruet, Sr., and that I knew that notes, vouchers, etc., were in his possession; and I afterwards met Mr. Bailey, and he expressed no fears of anything in the shape of vouchers or notes in existence that would be of any harm to him.

"After this conversation with the Senator, and on my return

to St. Louis, I demanded of Mr. Gruet, a showing of these papers, that I had been in Missouri so long he would have to show me; *and he did show me.*

"Now, my letter to Mr. Bailey, explains itself, and was written by me in good faith *as a defense against any idea that he might have that I was mistaken in my warning.*

"Long live the good name of TEXAS and the Democratic majority!
L. S. FLATAU."

FLATAU'S FAMOUS LETTER TO BAILEY.

(Com. Rept., p. 994.)

ST. LOUIS, June 26, 1906.

"J. W. Bailey, Washington, D. C.

"MY DEAR SIR: Recalling my conversation with you while in Washington this week, and wherein you somewhat censured me, or insinuated as much, in regard to the report that I had heard was afloat wherein you were interested, I want to say that my conversation with Colonel Bob Cowart was strictly and merely an inquiry as to what the reports meant that were being circulated against you.

"During this conversation with him and while I thought it was public, I meant no less friendship for you or interest in Texas' representative.

"Now, after returning home, I felt it my duty (and perhaps it would be of importance to you at the same time), I undertook to investigate the facts that might connect you with the Waters-Pierce Oil Company, Mr. Pierce in particular. And as circumstances so gave me the opportunity, I called on Mr. J. P. Gruet, who is the father of our secretary, so as to satisfy myself in regard to the truth of any evidence that might come up wherein it would be harmful to you. Now, you know I have no 'axe to grind,' nothing to expect from your hands or through your influence, because of your high position, therefore I give you this information and assure you that it would be as private and as personal as can be. It may be of importance to you and it may not; I can not say; but from what I have heard and from what I have seen and read it appears to me that it would be well for you to stop this procedure wherein you will be implicated in transactions that the people of Texas might construe far beyond what they really amount to. I have read letters and many other *prima facie* documents that were shown me by J. P. Gruet, that look very bad for your interests. They no doubt will have Mr. Gruet in Texas, as I have read communications from the head of certain departments in that State wherein they hope to arrange matters for his appearance, and as a friend I would advise you to check this movement at once and it can be done by Mr. Pierce. I have learned through business connections that Mr. Hawes' firm are the attorneys for Mr. Gruet.

"Now, you can take this as you please and for what it is worth. I am only giving it to you, as I know it to be after perusing the documents that would be very detrimental to your high standing. This

can be checked by Mr. Pierce if he will and your influence with him should be brought to bear on this matter, and I know that it can be accomplished, that is, if you deem it worthy of such action. I would never have taken this matter up had I not have met you as I did and the conversation that took place between us, because I felt that it was merely a report, and I wanted to inquire into the facts in the matter. Now, I love Texas just as well as you do and take as much interest in her representatives as any other Texan, and feel enough interest in you to write this letter in the feeling that I try to impress. No one as yet but myself knows anything of these facts as I have narrated them to you, or could give you the warning that I give, without price of any kind.

"Hoping that you will consider this for what it is worth, if it be worth anything at all, I am as I have always been,

Yours,

L. S. FLATAU."

BAILEY WRITES LIGHTFOOT AND DAVIDSON THAT "ALL IS WELL."

Immediately after Captain Flatau had met Bailey in Washington and warned him, as a friend and to save Texas a political scandal, Bailey hastened to write Assistant Attorney General Lightfoot and Attorney General Davidson reassuring letters. Although Mr. Bailey has since bitterly complained that they should have made their exposures prior to the Democratic Primaries of July 28, 1906, they did not come into possession of the incriminating documents until November of the same year. Then, too, Bailey advised them on June 21, 1906, about a month before the Primaries, that the rumors that were then gaining currency connecting him with having received money from the Waters-Pierce Oil Company were "absolutely false." But to quote Mr. Bailey's own testimony—

The witness Bailey (continuing, Committee Report, p. 861)—

Q. When did you first have information by rumor or otherwise of the possession of these vouchers and documents that have been submitted to the committee here by Gruet?

A. Well, I can refer to a letter here. I can tell—I can not fix the exact date, but I know it was before the date of this letter—it was before June 21st, 1906 (consulting a letter.)

Q. Now, that information, Senator, how was it conveyed to you; by letter or otherwise?

A. Well, this letter here shows that it was on the 20th of June that I first learned of it. This is a letter or a copy of a letter that I wrote to Jewel P. Lightfoot. It is dated the 21st of June, 1906, and begins: "Yesterday a gentleman [Capt. Flatau] told me that some one had represented to you—" so that shows that it was a personal conversation and that it was the day before.

Q. I wish you would read that letter to Mr. Lightfoot, Senator, please, sir.

A. This letter is dated Washington, June 21, 1906. "Hon. Jewel P. Lightfoot, Austin, Texas. My Dear Sir: Yesterday a

gentleman told me that some one had represented to you that either I had given my notes to the Waters-Pierce Oil Company or that the Waters-Pierce Oil Company had given its notes to me, and that the transaction had some connection with the readmission of the Waters-Pierce Oil Company to Texas. It is immaterial whether this party stated I had given my notes to the Waters-Pierce Oil Company or it had given its notes to me, because either statement is absolutely false. I have never received any note from nor given any note to the Waters-Pierce Oil Company, nor have I ever received any money from it or paid any money to it. I am sending a copy of this letter to Attorney General Davidson. Very truly yours."

And on the same day here is a copy of a letter to Attorney General Davidson, dated Washington, D. C., June 21, 1906, addressed to Honorable R. V. Davidson, Austin, Texas. "My Dear Mr. Davidson" or "My Dear Davidson," it reads, "I herewith enclose you copy of a letter to Mr. Lightfoot which will explain itself. Very truly yours."

Q. Did you ever have any reply to either of those letters?

A. Never.

BAILEY FOR BROOKS. WHY?

GAINESVILLE, Texas, July 14, 1906.

"I want to appeal to you today to help Judge Brooks to be Governor of Texas, *because he helped me to be Senator*. He is not a better man than the rest of those who are seeking the office, but he is as good as the best of them, *and while none of them could see their way clear to help me to be Senator, he did*. He has a brother who, if anything, is a better man than he is, *and I don't think I have a better friend in Texas than this brother of his*. These are the reasons, my fellow citizens, why I ask you to help Judge Brooks."—*Galveston News, July 15, 1906*.

The foregoing is a fair illustration of Mr. Bailey's supreme egotism and over-balancing selfconceit. Even the Governorship of Texas is to this ego-maniac a readily convertible asset for the repayment of his political debts.

H. CLAY PIERCE ARRESTED IN ST. LOUIS AND FORCED TO TESTIFY.

(Dallas News, September 11, 1906.)

"St. Louis, Mo., Sept. 10. H. Clay Pierce, Chairman of the executive board of the Waters-Pierce Oil Company, was arrested here today on an attachment issued and served a week ago to compel his attendance as a witness in a civil suit. From the sheriff's office Mr. Pierce was taken before C. B. Allen, Commissioner of the St. Louis Circuit Court, who had issued the attachment.

"The case upon which the attachment was issued is a suit brought by John P. Gruet, a former secretary, for salary."

PIERCE RELATES CONNECTION WITH STANDARD OIL.

As a result of his arrest Pierce was forced to testify, in the suit instituted by Gruet against him, and among other things said:

"When in 1878 I organized the first Waters-Pierce Oil Company its predecessors, Waters-Pierce & Co., and H. Clay Pierce & Co., had already established business in all the territory in which the present Waters-Pierce Oil Company now operates, and it was agreed and understood between myself and the representatives of the Standard Oil Company of Ohio, I think—at least it was the only Standard Oil Company that I knew as being in existence at that time—that the first Waters-Pierce Oil Company would confine its operations and transact its business within the certain territory in which the Waters-Pierce & Co. and H. C. Pierce & Co. had established their business. In other words, the Waters-Pierce Oil Company organized in 1878 was to take over the business of Waters, Pierce & Co. In pursuance of this understanding certain lines were agreed upon in Illinois which comprised parts, I think, of Madison, St. Clair County, including East St. Louis. The line was then in the State of Missouri and commenced at a point just south of Hannibal, on the west bank of the Mississippi River, and run according to county lines southwest to the western border of Missouri, bordering upon Kansas. Also the State of Arkansas and what is now Indian Territory and Oklahoma, Texas, all of Louisiana, west of the Mississippi River, and the Republic of Mexico.

Q. Has there been any change in the territory since it was then established?

A. There has not.

Q. From what source did the Waters-Pierce Oil Company obtain its supplies of refined oils at that time?

A. Almost exclusively from the Standard Oil Company.

Q. And from what sources has it since that time obtained its supplies of refined oil?

A. Almost exclusively from the Standard Oil Company and its allied interests.

PIERCE TESTIFIES ABOUT CONNECTION WITH SENATOR BAILEY.

"St. Louis, Mo., Sept. 15. * * * The testimony of Pierce brought out his close relationship with the young statesman from Texas, and was a reminder of the fact that Senator Bailey had rendered Pierce valuable services in 1900 in procuring a license for the Waters-Pierce Oil Company to do business in that State after its original license had been revoked for violation of the anti-trust statutes.

"The testimony of Pierce with reference to Bailey's connection with the Tennessee properties follows:

"'Immediately after Mr. Gruet's employment on March 28, effective April 1, 1905,' he said, 'Mr. Gruet came to New York to see

me, at the suggestion of Mr. Johnson, and I told Mr. Gruet that the affairs of the Tennessee Central Railway Company, the Tennessee Construction Company, the Briar Hill Collieries and the Cumberland Coal Company—the latter two being interests of the Tennessee Construction Company—required investigation; and, as I had placed my interest in the matter—which was large in amount—in the hands of Senator Bailey of Texas, with power of attorney for me to handle them as he saw fit, (I not having the time to give my personal attention to them), I wished Mr. Gruet to place himself at the disposal of Senator Bailey and make such investigation into the interests mentioned as Senator Bailey desired.

“Mr. Gruet went over to Nashville, under instructions from Senator Bailey, and remained there some time.

“He returned to St. Louis and was elected there by Senator Bailey, who had charge of the companies, president of the Briar Hill Collieries Company, and, I am not sure, but I think he was made a director and president, and I think he was given some official position in connection with the Cumberland Coal Company and also the Tennessee Construction Company.

“I don't now recall, but probably within a week, Senator Bailey came over, and in the meantime I had given Mr. Gruet a room in my office there. As I recall now it was the office of President Robinson of the Mexican Central Railroad, who makes his headquarters in the City of Mexico and only occupies the office upon the few occasions when he reaches New York.

“On cross-examination Pierce again referred to Senator Bailey's employment in connection with the Tennessee corporations, and estimated his interest in the properties at \$13,000,000.

“I assigned Gruet to Senator Bailey,' he continued, 'to do work in connection with the auditing and investigating of the affairs of the Tennessee Central Railway, the Tennessee Construction Company and allied interests.'

“That being a matter in which you were interested,' said Attorney Johnson, 'and which Senator Bailey was looking after as your attorney?'

“I was vitally interested in it,' said Pierce, 'to an extent which would oblige my taking over the entire business amounting to over \$13,000,000, and because I did not have time to give attention to it, I had employed Senator Bailey to take charge of the entire matter.' ”

COMMENT.

It was largely as a result of the foregoing testimony that “The Bailey Question” became acute in Texas politics in the fall of 1906, after Mr. Bailey had been perfunctorily endorsed as the Democratic nominee for the United States Senate from Texas in the previous primaries of July 28. *The testimony of Pierce was a revelation to the people of Texas.* So much so, in fact, as to cause a wave of indignation to sweep over the State. It appeared to many that this

intimate connection between Pierce and Bailey, involving vast millions, was indicative also of a connection between the Texas Senator and the Oil Masters in 1900.

Then it was that public sentiment was so crystalized for and against Mr. Bailey as to result in the Crane-Bailey Houston Debate, October 6, 1906, in which General M. M. Crane of Dallas, so vigorously contended for proper standards of public service, and in which Mr. Bailey displayed his qualities as a public speaker and as one who can successfully avoid the real issue in any discussion by invoking the charm of his own personality and by setting up straw men to distract the public attention from himself.

The growing opposition to Senator Bailey at this juncture had been increased, indeed, had its inception, perhaps, not so much through the exposures contained in the *Cosmopolitan* articles published in July and August, 1906, as through the circular of the Houston Good Government Club, of which Hon. H. F. Ring was president, entitled "The Shame of Texas," and through the Texas editorial comment which followed.

BAILEY'S DOCTRINE. (BEFORE HIS EXPOSURE.)

In this connection it is interesting to note the following from Senator Bailey himself: "I was never the retained attorney for any corporation, because I always reserve the right to accept or reject each case upon its merits. I never had twenty cases for a corporation in all my practice before or since I entered the public service. I never represented the Waters-Pierce Oil Company *or any monopoly in my life*. When they say a man in public life has no right to practice law for a trust, they raise no argument with me. I not only join them, but I go further. I say that no man in public or private life has a right to represent a trust, because it is an unlawful undertaking, nor to aid by his legal skill any man or corporation in evading the laws of the land."—(Fort Worth Record, Oct. 10, 1906.)

Remember that Mr. Bailey was afterwards forced to admit, on cross-examination, that he had received at least one fee of \$2,500 direct from the Standard Oil Company.

After all that has been said and written on this subject, the following estimate of Mr. Bailey's career and conduct, his possibilities and his shortcomings, which concluded the *Cosmopolitan Magazine* article, has proven as true an history, as it was then an accurate prophecy:

"The *Cosmopolitan* has a strong inclination to side with Senator Bailey against himself. He is young, he had brains, and he knows the right, though he may scorn it in the spurious wisdom he has acquired in the quest of wealth and the sort of support that is given him in the kind of Senate of which he has risen to a leadership, which dishonors his character. He is not too old to retrieve himself, could he climb to the Jeffersonian heights, where, as a politician, he pretends to dwell. *If he would love riches less and honest poverty more,*

he would be the man that nature intended him to be. Environment and an ambition that has not been illumined and guided by moral light have led him into ways of which his natural self would be ashamed. With a theme congenial to him he can rouse the Senate with his eloquence and stamp his individuality upon the mind of the country. He is not a Gorman or a Quay, however hard he may try in a discreditable and pitiable cynicism to be both. *It is his powers of mind and expression that have caused the "interests" to regard him as worth capture,* and the "interests," like Walpole, are of the opinion that every man has his price. Men of sanity, who are men with a just estimate of the value of the prizes of life, sorrow when a Bailey sells himself for a mess of pottage—corporation pottage, that takes the form of political influence and farms and race horses and a ready paying teller when checks for poker losses are presented. It is a misfortune to the country larger than any personal one, when a man of mind and energy in public office goes wrong. He may for a time deceive the people when he abandons the standard of uprightness, but he does not fool his closer neighbors."

And such a pity "'tis, 'tis true!"

"A STANDARD OIL DODGE.

"Tulsa, I. T., Oct. 12. By combining with John W. Gates, will pipe oil to Port Arthur from Tulsa. Information was received here today direct from the New York office of John W. Gates to the effect that the Standard Oil Company and the Gates oil interests in Texas have combined and will build a pipe line from the Tulsa fields to the Gates refineries at Port Arthur, Texas.

"Gates will build north and the Standard south, the two lines connecting on Red River, near Paris, Texas.

"The laws governing corporations in Texas prohibit the Standard Oil Company from doing business in that State, and for that reason the coalition with Gates was made. Gates controls a larger percentage of the Texas oil refineries and has a large market for crude oil."

—*Galveston News*, Oct. 13.

Cleburne, Texas, October 15th, 1906. (*Galveston News*, Oct. 16). Mr. Bailey said: "He was not sure whether he returned direct to Texas or went over to Lexington, Kentucky. If he went by Lexington he stated it was for the purpose of *seeing* his horses."

"Quoting from a letter which he claimed to have written to Hon. C. K. Bell, then Attorney General, dated Gainesville, Texas, August 3, 1901, 'My present opinion is that the company's failure to file the affidavit is the result of an oversight, and that it has no intention of resisting the requirements of the statute.'" Mr. Bailey has always been found as an apologist for the company ever since he bade them "wash their hands."

BAILEY DEMANDS RESIGNATION OF STATE SENATOR SENTER.

Dallas, Texas, Dec. 17th, 1906. (Galveston News, Dec. 18th.) "Senator Bailey, himself, telephoned from Gainesville that he hoped his Dallas friends would demand Mr. Senter's resignation."

SENATOR SENTER'S REPLY.

Senator Senter replied to this suggestion by calling attention to the fact that Mr. Bailey had been quoted as willing to have the controversy referred to the Democratic voters of Dallas and Rockwall counties, and concluded his proposition as follows: "Let a primary be held in which only Democrats shall participate to vote upon a ticket containing two propositions: one 'for Bailey'; the other 'against Bailey.' * * * If a majority declare for Mr. Bailey I shall retire from the Senate. If the majority declare against him, he is to retire from the race for United States Senator. * * * The people are entitled to choose the next Senator with full knowledge of all the facts which may or should affect their judgment." This proposition was declined by Mr. Bailey and he continued to demand resignations from all members of the Legislature who were not willing to vote for him as "the nominee," right or wrong, innocent or guilty. The Author always regarded this effort on Mr. Bailey's part as a political scheme to rid the Legislature in advance of the meeting thereof, of those members who desired an investigation, and, consequently in advance of any opportunity on the part of the people to have his conduct investigated that would enable the people to ever intelligently pass upon the issues. If Mr. Bailey and his henchmen could have thus secured resignations and reannouncements before his conduct was investigated, he would likely have carried most of the elections and thus the investigation that was afterwards forced, would have been thwarted and he would have gone "scot free" for all time to come, except for an occasional dissenter here and there. "For ways that are dark and tricks that are vain," for duplicity and artfulness in deceiving the people, this dark-visaged, white-eyed, astute Mississippi-Texas trickster, has had few, if any, equals.

It is a poor rule that has no exceptions. Blind partisanship, under the guise of party loyalty, so-called, has leagued itself with the corrupting influences of powerful political machines in many of the cities and some of the states of this Union. But little have we heretofore dreamed that the dragon of graft would seek to fasten its greedy and gapping jaws on the State of Texas and then find justification, vindication and "exoneration" by labeling itself "a Democratic nominee."

The existence of one political party, presupposes the existence of other like parties within the State, and this condition is necessary in a government of political parties. Minority parties, have rights,

however, that should and must be respected by the dominant party, or such party will not deserve nor permanently receive the support of a majority of the people.

The republicans, the Socialists, and every other political subdivision of the people, have a right to expect, yea even to demand, of the democratic majority in Texas, that we elect, not men possessing other political views than ourselves, but men out of our own ranks *at least honest and truthful*. Members of a State legislature represent all the people of their State—not a part of them—and under their official oaths, they owe it to both their State and the nation, as well as to their party, to elect United States Senators of their own political faith, but Senators measuring up to the ordinary standards of common honesty.

There is nothing sacred about a party nominee—at least not so to the democratic “Rogues” of Texas. Party principles and party policies should be faithfully supported. On questions of official integrity and veracity there should be no division between parties; all should stand on a common level. The party nominee who urges his nomination as against seriously developed after questions involving his official character and fidelity, who uses the party lash, and says that he may do with impunity what ordinary men may not do without violating their official consciences, is afraid of his own record, or an Egomaniac—*possibly both*.

Hon. William J. Bryan maintains the doctrine that a man's duty to his country is always higher than his duty to any party in that country. That is patriotism, not partisanship; the position of an honest patriot, not the spurious bombast of a dishonest egotist.

QUERY: Which is the most straightforward course: To advocate the investigation of corrupt practices exposed subsequent to a nomination, or for a nominee after his election to forsake the people—and pocket the proceeds? Under such circumstances, the public servant will certainly fool the people, or the despoilers of the people who pay him his price expecting to get value received. He cannot “deliver the goods” to both parties to the transaction.

BAILEY AT COMANCHE, TEXAS.

Comanche, Texas, December 18th, (Galveston, News, December 19th), 1906. Referring to the \$1,500 draft which he himself had destroyed, and concerning which he offered to resign “if they would produce such a draft,” Mr. Bailey asked, “Ought they not resign unless they do produce it or trace it through the banks? * * * If they can prove [the draft] it will convict me of a falsehood. Bring on the draft and convict me of a falsehood.”

Bailey knew they could not produce it or trace it because he, himself, had gotten it back and destroyed it.

“Then they bring up a loan of \$8,000. I borrowed that; it is not all I borrowed; I have borrowed much money. * * * That

\$8,000 note was dated March 1st, 1901. Do you suppose if it had been a fee [for the readmission in 1900, he means] I would have waited a year to collect it from a \$30,000,000 corporation?"

Answer: No; but what business had he borrowing \$8,000 for lobbying before the Texas Legislature in 1901, to defeat legislation inimical to the interests of the company? And why should he borrow \$8,000 under any circumstances from a \$30,000,000 corporation which was not in the business of money lending?

BAILEY AT DE LEON, TEXAS.

De Leon, Texas, December 19, (Galveston News, December 20th,) 1906.—"Bank endorsements are not on the draft and this at once exposes the forgeries. You see the injustice which Davidson committed by refusing to let me see the papers so I could not answer them as they are.

"The Waters-Pierce Oil Company did not charge it [\$3,300] to expense * * * but to bills receivable. Now I ask the Cashier again, isn't it true that when a document or bill is charged to bills receivable it is treated as an existing valid demand?"

The trick of it was, however, that they carried Bailey's \$3,300 due bill in bills receivable *until it was due and then charged it off to legal expenses and afterwards to profit and loss.*

BAILEY AT DUBLIN, TEXAS—HORNET'S NEST.

Dublin, Texas, Dec. 21, (Galveston News, Dec. 22nd), 1906.—During a public address by Mr. Bailey, the following interesting dialogue took place:

DECLARES THEM FORGERIES.

"I [Bailey] understand you have a citizen here who says 'Why did Pierce send that telegram authorizing a draft and to have me quiet Texas parties?'

"That telegram is a forgery, just like the draft is a forgery. They don't claim that the telegram was sent to me but to some one else. The telegram was dated June 12, and the draft June 15. They forged the telegram to lay the predicate for forging the draft, but I have caught them by calling upon them to show the bank's endorsements, or the bank record. [The draft and the telegram were afterwards proven genuine.]

"Somehow God has so created the universe that a lie cannot prevail. They simply tried to forge too much."

A little later Senator Bailey invited any one present who desired information concerning the Waters-Pierce transaction to ask him questions promising civil answers, and declaring that if they wouldn't ask him while here they ought not to ask "his friends" when he had gone. "Can you not legally force Attorney-General Davidson to show you those papers?" asked H. A. Groos.

"No, sir," Senator Bailey answered. "I cannot legally do so, but if Davidson had not filed an amendment in that case at Austin that forced a continuance he would have had to produce them in court, but the case has been continued until March. *I will be elected to the Senate in January and then you will hear no more about that forged draft.* And in God's name is a Democrat from Texas compelled to resort to law to make a Democratic Attorney-General treat him decently?"

FAUST ASKED QUESTIONS.

A little later C. G. Faust, a business man of Dublin, arose in the rear of the hall and claimed the Senator's attention.

"I am one of the men you referred to in regard to that telegram from Wisconsin," said Mr. Faust. "Did you say that that telegram is a forgery? Is that right?"

Senator Bailey: Yes. Well, of course, I cannot say positively because that telegram did not come to me. It does not purport to have come to me. *I can say positively that the draft is a forgery because it is said to be signed by me.* I know that the draft which is supposed to be based on the telegram is a forgery. Hence I believe that the telegram is a forgery.

Mr. Faust: I want to ask if you have ever conferred with Mr. Pierce and asked him if the telegram is a forgery.

Senator Bailey: No, sir, I have not consulted with Mr. Pierce about anything in this connection. I did not confer with him about the letter which he sent to me saying that he had told me that the Waters-Pierce Oil Company was an independent corporation. He wrote that letter of his own accord. I have in my papers a telegram from Mr. Pierce saying that I had not received a dollar direct or indirectly from the Waters-Pierce Oil Company and stating that I held his receipt for the \$8,000 paid him to take up my note, which note was lost at the time of payment. I have never read this telegram where I addressed the people nor did I give it out to the public. It was given to the newspapers up there.

Mr. Faust: Did you know whether he was in the place in Wisconsin at the time?

Senator Bailey: No, sir, I don't keep up with his movements either in the summer nor in the winter time.

Mr. Faust: Do you know where you were on June 15, the day this draft was purported to have been signed?

MAN WHO SAYS IT IS A LIAR.

Senator Bailey: *No; but I do know that the man who says I signed that draft is a liar.*

Mr. Faust: I am not making that charge.

Senator Bailey: I know you are not.

Mr. Faust: Well, you are getting pretty close to me.

Senator Bailey: Then you should not get so close to the lie.

Mr. Faust: But, Mr. Bailey, I am getting pretty close to you I think you said you would give me a civil answer.

Senator Bailey: I said I was going to be civil to you and I am.

Mr. Faust: Be so then; you were shooting close to me.

Senator Bailey: Well, I am going to be civil to you now, but I would not like for any man to say that to my face when I go downstairs.

Mr. Faust: Do you know where you were on that June 15?

Senator Bailey: No; do you?

Mr. Faust: No, but I could find out.

Senator Bailey: *I could, too, if it were important.*

Mr. Faust: This seems important enough *to take you out of the halls of Congress.*

Senator Bailey: Yes, sir; but none of the miserable wretches have the courage to run against me.

Mr. Faust: Somewhere in this correspondence it is alleged that you told Pierce to send you exchange in your name so that he would not have to indorse it. Why was that?

Senator Bailey: Because I needed the money at once and did not want any delay in the sending of it.

Mr. Faust: Will you ask the banker here whether or not Mr. Pierce's check payable to you, or a draft payable to him and indorsed by you, would have suffered any more delay in being collected than a draft in your name?

KNEW PIERCE'S HABITS.

Senator Bailey: I don't need to ask the banker. I knew Mr. Pierce's business habits. *I have seen checks lie on his desk a week waiting for him to sign them,* That was exactly what would have happened about this draft. This \$1,750 was a part of the \$8,000 note I had borrowed. I had written for this money before, as that letter shows. My request was purely in the interest of economy of time. Is there a man here who believes that if a man was getting money wrongfully he would have written the letters about it all?

Mr. Faust: It seems that Mr. Pierce had the time to get the exchange from the bank and gave his check for it.

Senator Bailey: Yes, sir, but do you suppose that had I been afraid for Pierce to sign his name to the check that I would have signed my name to the letter to him requesting him to send me the money?

Mr. Faust: You have been pretty close to Pierce.

Senator Bailey: You see, he applauds himself. I want to say to the people here that *I transacted many million dollars' worth of business with H. C. Pierce in my time.* Every dollar of that business, however, was transacted before I discovered the connection between the Waters-Pierce Oil Company and the Standard Oil Company. Do you suppose that Pierce would have trusted me to transact \$20,000,000 of business for him unless he had confidence in me?

And do you suppose he would have employed me if he thought I had betrayed my constituents? Now, I want to ask Mr. Faust a question. Have you always voted the Democratic ticket?

Mr. Faust. *I have.*

STATE DEMOCRATIC COMMITTEE SHIELDS BAILEY.

Dallas, Texas, October 16th, (Galveston News, October 17th), 1906.—At a meeting of the State Democratic Executive Committee presided over by Mr. Bailey's Illinois importation Mr. George A. Carden, a resolution was introduced endorsing Chairman Carden in the matter of his recent letter to the Democracy of Texas, urging them to desist from further agitation of the Bailey matter. Hardly had the resolution been read when J. M. Edwards, of Tyler, offered a substitute declaring that the Democrats had at all times the right "to consider, discuss and criticise the records and conducts of their representatives in Congress and their public servants," declaring these rights to be fundamental and essential to the welfare of the rank and file of the party and that it could not be "abridged or stifled" by the committee or its chairman. The resolution was concluded with the statement that the committee and its chairman would be without jurisdiction to "control the views or action of the sovereign Democrats of Texas with reference to the record or conduct of Senator Bailey, or with reference to his re-election; that it would be impolitic, unwise and futile for this committee to take any action which is intended or which may be construed as an effort so to do."

Mr. Bailey's partisans on the committee insisted upon their motion, whereupon the Committee went into executive session *and the representatives of the press were excluded from the counsels of the Democracy of Texas, while the politicians conspired in secrecy to shield a Standard Oil Senator.*

Mr. Carden, formerly of Chicago, was asked if he did not think the rank and file of the party were entitled to know all that the State committee did. He replied: "I think that this is purely a matter of party procedure and being so, it occurred to me to be the proper thing to do. * * * *I do not think that members of the party have a right to know all the business it transacts.* We do not care to furnish campaign material for the opposition party," as though an opposition party could hurt the Democratic ticket in Texas. It was not the "opposition party" that Mr. Carden wanted to keep in the dark, but the honest Democracy of Texas who had a right to know all the facts concerning their Senator.

PROPOSED REVOCATION OF ABOVE COMMITTEE ACTION.

On December 16, 1906, (Galveston News, December 17th), Hon. C. M. Smithdeal, member of the State Democratic Executive Committee, addressed a letter to Mr. George A. Carden complaining of the action of the Committee in October in declaring "behind closed doors and in executive session that Joseph W. Bailey was the nominee

of the Democracy in Texas for United States Senator." Attention was called to the fact that at that time "it was not known by the Committee that he had received from H. Clay Pierce various sums of money at the time he aided in the readmission of the Waters-Pierce Oil Company and afterwards." Mr. Smithdeal continued, "If the executive committee at that time had authority to declare him the nominee it has at this time the authority to declare him unfit, by reason of his admitted relation with the Waters-Pierce Oil Company, to represent the people of Texas in the National Congress. * * * It acted without knowledge of all the facts. If the committee had that power, it has the power now to say whether it is the duty of Democrats to support him in view of the disclosures made since the primaries and in view of Senator Bailey's admissions." The letter concluded with a demand that the Chairman call the State Executive Committee together to consider the matter prior to the convening of the Legislature. This appeal, however, fell upon unresponsive ears. Mr. Carden refused so to do, which refusal elicited the following strong letter:

COMMITTEEMAN SMITHDEAL TO STATE CHAIRMAN CARDEN.

Hillsboro, Texas, December 31, (Dallas News, January 2), 1907.—Hon. George Carden, Chairman State Democratic Executive Committee: Dear Sir: Your letter to me, published in the Dallas News, and dated Dec. 29, was received today. You decline to grant my request to convene the State Executive Committee, and I presume that it is useless for me to pursue the matter further. However, I cannot refrain from calling attention to what seems to me to be your inconsistent attitude with reference to the power of the Committee.

You state that Mr. Bailey is the nominee for United States Senator; that the State Committee could not give additional force to that nomination, nor could it declare him not the nominee. After the State Convention adjourned, and at the very beginning of the present political agitation, you, as chairman, addressed a communication to the Democracy of Texas, enjoining further discussion of Senator Bailey's alleged transgressions. When the State Committee met, pursuant to call, in October of the present year, Mr. Edwards, of Tyler, offered a resolution to the effect that the committee was without jurisdiction to declare Senator Bailey the nominee of the party. You held the proxies of some absent members and voted them against the Edwards resolution. If you, as Chairman of the Committee, had the authority to advise the Democracy of this State, certainly the whole committee would have as much authority. If the Edwards resolution embodied your views with reference to the powers of the committee it is difficult for me to understand why you voted against it. I did not question your sincerity, but I confess to some curiosity to know what has caused you to change your views.

I have not contended at any time that the Executive Committee

could annul any act of the State Convention or declare void the results of the primary election, but I have said, and now say, that disclosures made since the adjournment of the convention have brought about much discussion and caused great dissatisfaction among Democrats concerning the United States Senatorship, and that it would be entirely proper and timely for the State Committee to take cognizance of the situation and discuss it in the interest of the party.

A great crisis confronts the Democracy of Texas. The paramount question is not whether Senator Bailey shall win a personal triumph, but whether the Democracy shall abandon its ideals, the principles which have caused it to survive long after its illustrious founder passed away, and dedicate itself unreservedly to the furtherance of one man's political fortunes, regardless of consequences to the people.

The condition in which we find ourselves today is anomalous, if not entirely unprecedented. A United States Senator has been charged with flagrant wrongs against the rights of the people whom he was chosen to represent. From his own lips has been forced a confession which should convince; yet because the people, in utter ignorance of his conduct, perfunctorily recommended him to the Legislature for re-election, it is contended by him and by many of his partisans that his conduct has been approved, or at least condoned, and that however much his retirement may now be desired, the party is powerless to reconsider its action. A technicality is invoked to defeat the will of the Democracy of Texas, and you, as chairman of the Executive Committee, have lent the force of your indorsement to the proposition that nothing short of a revocation by the people themselves can undo that which should have no force whatever, because it was procured by concealment of facts.

Under the conditions it seems to me that it would be timely for the Executive Committee to discuss the question as to what should be the policy of the party. It cannot bind members of the Legislature, of course. It cannot revoke the decree of the convention, nor is it probable that it could recommend a method of procedure that would be adopted in all portions of the State, but it could advise—it could recommend some feasible plan for extricating the party from its present dilemma. The State Committee was not created by the State Convention, as you declare. The committee has existed ever since there was a Democratic party in Texas. It is recognized by law, and all the State Convention had to do, so far as the State Committee was concerned, was to elect a chairman and members. The committee should know what party discipline demands, and should not hesitate to meet and discuss any situation which is material to the welfare of the party. Above all things, it should not lend itself to be used by any man who deems himself greater than the party which has honored him—it should look to the interest of the Democracy, and not to the interests of Senator Bailey.

C. M. SMITHDEAL,
State Committeeman Tenth Senatorial District.

WYNNE SAID BAILEY WOULD BOYCOTT STATE INSTITUTIONS.

During the Travis County campaign, in a joint debate between Hon. A. W. Terrell and Col. R. M. Wynne, the latter being a partisan of Mr. Bailey, at Austin, January 3rd, 1907, Mr. Wynne advised Travis County voters that their opposition to Bailey would cause the Texas Legislature to refuse to appropriate money for the "great State institutions" located in said county.

Col. Wynne said: "My God, fellow citizens, you are revolutionists (whistling). You will go before the next Legislature asking for appropriations for the great institutions. Jim Robertson [a Travis County Representative] will be asking them to help this city, splendid with its eleemosynary and other institutions. Jim Robertson, when you tell them what Austin and Travis County wants, they will tell you that Travis County is a bolter." As a matter of fact, the Travis County voters did not vote on Mr. Bailey's name in the July primaries as the County Chairman had refused to put his name on the ticket, because Mr. Bailey, as he claimed, failed to comply with the law in that connection and this was the first time that the Travis County people had considered Mr. Bailey's candidacy.

In spite of the above cheap threat and all that Bailey and his cohorts could do, Travis County instructed her legislative representatives to vote against Bailey's return to the Senate—because they had then learned of his traitorous connection with "the system."

On May 2nd, 1908, Travis County gave a majority of over 2,000 against Bailey as a candidate for Democratic Delegate at large—this was an increase of over 1,800 against Bailey as compared to the less than 200 majority against him in January, 1907.

ANTIDOTES FOR BAILEYISM.

He that humbleth himself shall be exalted, and he that exalteth himself shall be abased.—*The Scriptures.*

If thou wouldst be justified, acknowledge thine injustice. He that confesses his sin, begins his journey toward salvation. He that is sorry for it, mends his pace. He that forsakes it, is at his journey's end.—*Quarles.*

I feel within me a peace above all earthly dignities, a still and quiet conscience.—*Shakespeare.*

What other dungeon is so dark as one's own heart! What jailer so inexorable as one's self.—*Hawthorne.*

Woe unto him in public life who maketh haste to be rich; or who sacrifices his or his country's honor upon the altar of mammon.—*The Author.*

The voice of conscience is so delicate that it is easy to stifle it; but it is also so clear that it is impossible to mistake it.—*Mad. de Stael.*

If any speak ill of thee, flee home to thine own conscience, and examine thine heart; if thou be guilty, it is a just correction; if not guilty, it is a fair instruction. Make use of both—so shalt thou distil honey out of gall, and out of an open enemy make a secret friend.—*Quarles.*

Our conscience is a fire within us, and our sins as the fuel; instead of warming, it will scorch us, unless the fuel be removed, or the heat of it be allayed by penitential tears.—*J. M. Mason.*

A disciplined conscience is a man's best friend.—It may not be his most amiable, but it is his most faithful monitor.—*A. Phelps.*

This craze for easy and quick made wealth, individual and national, is the crime of the age.—*The Author.*

The love of money is the root of all evil.—*The Scriptures.*

What conscience dictates to be done, or warns me not to do, this teach me more than hell to shun, that more than heaven pursue.—*Pope.*

Labor to keep alive in your heart that little spark of celestial fire called conscience.—*Washington.*

The men who succeed best in public life are those who take the risk of standing by their own convictions.—*J. A. Garfield.*

By the sweat of other brows shall we and our children eat bread, is the modern doctrine of political and industrial avarice.—*The Author*.

A man of integrity will never listen to any reason against conscience.—*Home*.

A clean and sensitive conscience, a steadfast and scrupulous integrity in small things as well as great, is the most valuable of all possessions, to a nation as to an individual.—*H. J. Van Dyke*.

Be fearful only of thyself, and stand in awe of none more than of thine own conscience. There is a Cato in every man—a severe censor of his manners. And he that reverences this judge will seldom do anything he need repent of.—*Burton*.

Never contend with one that is foolish, proud, positive, testy, or with a superior, or a clown, in matter of argument.—*Fuller*.

Into the vortex of an insatiable appetite for gain, without giving value in return, is cast character at any cost.—*The Author*.

Where two discourse, if the anger of one rises, he is the wise man who lets the contest fall.—*Plutarch*.

Across the horizon of every young man's life should be written, in letters large and luminous, this salutary motto: "A good name is rather to be chosen than great riches, and loving favor rather than silver and gold."—*The Author*.

Contentment is natural wealth luxury is artificial poverty.—*Socrates*.

Contentment gives a crown, where fortune hath denied it.—*Ford*.

What though we quit all glittering pomp and greatness, we may enjoy content; in that alone is greatness, power, wealth, honor, all summed up.—*Powell*.

If two angels were sent down from heaven, one to conduct an empire, and the other to sweep a street, they would feel no inclination to change employments.—*John Newton*.

CHAPTER XI.

DAVIDSON-BAILEY CORRESPONDENCE OF 1906.

NOTICE TO PRODUCE.

The following notice was served on George Clark as attorney for Waters-Pierce Oil Company by Attorney-General Davidson, dated Austin, Texas, November 27th, 1906:

" * * * 12. All letter books and records showing copies of all letters from J. D. Johnson to George Clark, of Waco, Tex., and all letters from George Clark to J. D. Johnson, of St. Louis, Mo., and all letters from J. D. Johnson to all parties in Texas, and all letters from Mr. J. D. Johnson and Mr. George Clark to J. W. Bailey, and all letters from Mr. J. D. Johnson and Mr. George Clark to parties in New York relating to the settlement of the cases pending in the city of Waco, Tex., against the old Waters-Pierce Oil Company, and its officers and agents, all of said letters being written during the year 1900. Also all letters and copies of letters written by and to the above parties, as set out, relating to the readmission of the Waters-Pierce Oil Company into Texas in 1900. * * *"—Galveston News, Nov. 28th.

Mr. Bailey's reply:

"Washington, Nov. 29.—Senator Bailey made the subjoined statement today relative to the allegations which affect him in the suit against the Waters-Pierce Oil Company: 'I have believed for more than two months that the Attorney-General's office is actively aiding the political conspiracy against me in Texas. For some time reports have been coming to me of statements made by men connected with that office which were absolutely false, and which could have been made only for the purpose of creating prejudice in the minds of those who do not know the facts; but as those statements were made in private conversations I refrained from taking public notice of them until I could be more thoroughly satisfied of the motives of the men who made them. The course adopted confirms me absolutely in my opinion that he is a part and parcel of a deliberate and sedate conspiracy to defeat a Democratic nominee and defame an honorable man. This sensation which they have sought to produce will pass precisely as that of the Houston Good Government Club passed, because it has no foundation; and it will not take the people of Texas long, when they see how utterly groundless it is, to understand the desperate and infamous motives which inspire it.

" 'Inasmuch as I have publicly and repeatedly declared that I did not act as an attorney for the Waters-Pierce Oil Company in the matter of its readmission to the State, it would be important for the

people to know whether or not that is true; but its importance would be wholly political and has no relation whatever to a legal proceeding to revoke the permit of that company and to punish it by fines and penalties. If the State could prove that the Waters-Pierce Oil Company paid me even a fabulous sum for helping it to secure its permit to transact its business in Texas, it could have no more legal effect upon the decision of that case than if the attorneys for the defense could prove that the railroads and breweries assisted Attorney-General Davidson to secure his first nomination as Attorney-General. The obvious and only effect of introducing politics into the trial of the case is to obscure the real merits of the controversy and to make the result a political rather than a judicial one. The State, however, cannot possibly prove that I ever accepted employment or compensation from the Waters-Pierce Oil Company, for the very sufficient reason that such is not the truth. If those who represent the State have any vouchers or papers purporting to have been signed by me, and acknowledging the receipt of money from the Waters-Pierce Oil Company, they have been forged, and if they produce any such papers in the court I will prove that they are forgeries; or if they attempt to prove by secondary evidence that such papers exist in anybody's possession, *I will convict the man who so swears of perjury.* The statement that I ever drew a draft or gave an order on the Waters-Pierce Oil Company in favor of anybody, for any amount or for any purpose, is an absolute and unqualified lie.' " [*The draft was on Pierce.*]

DAVIDSON TO BAILEY.

"AUSTIN, TEXAS, Nov. 30.—Attorney-General Davidson tonight gave press copies of a letter addressed to United States Senator Joseph W. Bailey, as follows:

"AUSTIN, TEXAS, Nov. 30.—Hon. J. W. Bailey, Washington. Dear Sir:—For more than six years the people of Texas have lived under the shadow of the wrong perpetrated against them by the re-introduction of the Waters-Pierce Oil Company into Texas under your guidance and direction after it had been outlawed by the highest courts of the land. During all of this period of time it has plundered the people without conscience, and the obligation which I, as Attorney-General, owed them, prompted me to exhaust every effort to purge this State of an institution which should never have been permitted to re-enter. In developing testimony necessary to convict that corporation of continued violations of our laws, I have proceeded with an eye single to that purpose. *That our investigations have developed the fact that you have not been candid with the people in stating your connection with its reintroduction has only filled me with shame and sadness.*

"Even under the great provocation of having unworthy motives ascribed to me, my assistants and associates, I have had no feeling other than that of sorrow, that one to whom has been entrusted the high position of United States Senator should resort to abuse and

villification in an effort to silence the righteous indignation of our people.

"In my anxiety to escape a controversy that might have injuriously affected the interests of the State in the case against the Waters-Pierce Oil Company, I have refrained from denying your misstatement to the effect that you had tendered your services in that case. If the attack made by you on me through the papers of this date were purely personal I might still refrain; but when you charge that the officers of the State have entered into a conspiracy to do injury to a citizen, I owe it to the people who elected me to an honorable position to answer.

"I have filed a petition wherein it is charged that H. C. Pierce, acting for the Waters-Pierce Oil Company, before and after its reorganization, paid out money in connection with cases pending against the old company, thereby assuming obligations of the old corporation, *and that such sums so paid were audited and approved by the auditors of the Standard Oil Company of New Jersey.*

"The allegations have been sustained by the District Judge as proper. They would not have been made if the facts had not been regarded as pertinent, nor would they have been made if I had not been in position to prove them.

"The circumstance that the evidence established that you received some of the money which the company charged to expense connected with the anti-trust cases, is a fact for which I am in no sense responsible, and my idea of the discharge of public duty does not comport with the suppression of evidence because such evidence might injure one in high position.

"That you may have an opportunity of explaining the facts suggested by the notice filed by us in the discharge of official duty, I make the following statements and ask the following questions:

"April 25, 1900, you received from H. C. Pierce \$3,300. This sum was subsequently returned to H. C. Pierce by the Waters-Pierce Oil Company and charged as "account of Texas cases." Was the sum given to you as a loan or as a fee? If a loan, has it ever been paid? If a fee, for what service?

"On June 15, 1900, a charge was made in the books of the Waters-Pierce Oil Company of \$1,500 as paid to Henry & Stribling "on account of expense of anti-trust civil case." Was not this sum paid by a sight draft drawn by you? You have stated that you did not draw on the Waters-Pierce Oil Company for such sum. *Did you draw a draft on H. C. Pierce or J. D. Johnson?* You received \$200 on Nov. 23, 1900, which was charged upon the books of the Waters-Pierce Oil Company as on "account of Texas cases."

"Did you represent the Waters-Pierce Oil Company or H. C. Pierce in Texas in any other case than the anti-trust case? Was the sum paid to you by H. C. Pierce or the Waters-Pierce Oil Company?

"On March 28, 1901, or about that time, you wrote a letter to H.

C. Pierce in response to which you received New York exchange for \$1,750.

"This sum was charged upon the books of the Waters-Pierce Oil Company as on "account of Texas legal expenses." Did you in this letter request a loan, or did you demand a fee? If a loan, has it been paid? If a fee, for what service?

"On March 1st, 1901, you executed your note for \$8,000, due in four months, to H. C. Pierce.

"You received Pierce's check for the amount. He immediately had the amount repaid him by the Waters-Pierce Oil Company. Has this note ever been paid? Has payment ever been demanded? Yours truly, (Signed) R. V. Davidson, Attorney-General.'" (Galveston News, Dec. 1st, 1906).

BAILEY SAYS HE WILL ATTEND TO DAVIDSON.

"ST. LOUIS, MO., Dec. 2.—Senator Joseph W. Bailey, of Texas, left St. Louis at 2 o'clock this afternoon for Austin, Tex., to answer the charge made against him by Attorney-General Davidson in an open letter to the public. While Senator Bailey uttered no word or syllable against Davidson, he said he would attend to that gentleman's case in a hurry when he got to Austin.

"*'I will not be in Texas more than two days,'* said the Senator at the Union Station, as he was about to board his train. 'I can attend to Davidson in that time. What I have to say is ready and I will do my talking in a mighty few minutes after I get home. Then if there is anything sensational about the Texas dispatches it will not reflect on Bailey.'

"*Senator Bailey will return almost immediately to Washington to remain for the rest of the session.*"—Galveston News, December 3rd, 1906.

COMMENT: But he didn't attend to Mr. Davidson "in a hurry," nor did he return to Washington for three months, reaching there on Sunday, the last day of the session, just in time to entitle him to collect his \$700 mileage.

"BAILEY IS WRITING."

AUSTIN, TEXAS, Dec. 5.—Mr. Bailey arrived at a late hour, having "missed his train" in St. Louis. Among those who met the Senator at the Driskil Hotel, in order to assist him in telling the people of Texas about his transactions with the trust masters, were the following: R. M. Johnson, of the "Houston Bailey Boast;" Clarence Owsley, of the "Fort Worth Bailey Record;" T. N. Jones, of Tyler, who was afterwards the "Pinkerton" among Mr. Bailey's array of legal talent before the Suppression Committee; W. L. Radney, of Waco, the same who afterwards testified in behalf of the "exonerated" Senator; Judge John Hornsby, he of Warren Moore and John H. Kirby bribery fame; Capt. James E. Lucy, who afterwards became one of Bailey's campaign managers in the Travis County campaign

and paid \$100 to State Senator A. P. Barrett, as the "stamp lick" of the Bailey forces, and the same who is the State representative of the American Surety Company in which John D. Johnson is said to be largely interested and which company afterwards made a \$3,500,000 bond, together with Mr. John H. Kirby, for the Waters-Pierce Oil Company; Hon. Frank Andrews, of Houston, and Judge M. A. Spoons, of Fort Worth (railroad lawyer), together with Mr. Jot Gunter, of San Antonio.—Galveston News, Dec. 6th.

Isn't it a little strange that all this aggregation had to congregate at the State Capitol to assist a brilliant United States Senator in answering a few simple questions?

BAILEY TO DAVIDSON.

AUSTIN, TEXAS, December 6th, 1906, (Galveston News, December 7th).—Senator Bailey gave to the press the following open letter after extended conferences with his friends and after he had demanded of Attorney-General Davidson an opportunity to inspect the papers, which demand was refused until Senator Bailey had first answered his questions, or unless Mr. Bailey would deny that he had received money from H. C. Pierce.

The text of Senator Bailey's letter follows, omitting the heading:

AUSTIN, TEX., Dec. 6, 1906.—Hon. R. V. Davidson, Austin, Texas. Sir: I have read your open letter, dated Nov. 30, and addressed to me at Washington, D. C. In the first sentence of it you state that the reintroduction of the Waters-Pierce Oil Company into Texas was under my "guidance and direction." For many weeks my enemies have been asserting that on the trial of the case against the Waters-Pierce Oil Company the State would prove that I acted as counsel in the dissolution of the old company and the reorganization of the new one; and some of them have gone so far as to say that I held and voted the proxies both of H. C. Pierce and the Standard Oil Company, thus demonstrating, as they claim, that I must have known of the Standard's interest in the Waters-Pierce Oil Company. This story was so utterly destitute of truth that I could not believe that you, or any one connected with your office, had done anything or said anything to warrant its circulation. But your declaration that the Waters-Pierce Oil Company re-entered this State under my "guidance and direction" now satisfies me that the specific falsehood—that I acted as an attorney in dissolving the old company and organizing the new one—was based upon information emanating from your department. Considering your official position and your relation to this case, the people of Texas have a right to suppose that when you declared that the Waters-Pierce Oil Company re-entered this State "under my guidance and direction" you had at least some respectable evidence to support such a declaration.

BASIS FOR RESIGNATION.

Can you produce such evidence? If you will, we can close **this** controversy at once and for all time. If you can find even one **honorable** man in the United States who will swear that I was ever consulted about the dissolution of the old company or the organization of the new one, or that I ever spoke to any man, or that any man ever spoke to me about the issuance of the permit under which the Waters-Pierce Oil Company re-entered this State, or that I had any connection with that Company, except such as I have frequently and publicly stated, and as I will repeat in this letter, I will resign my seat in the Senate.

[Referring to his relations with Pierce, Mr. Bailey said at the Waco Convention, August 8, 1900: "He took my advice. * * * He went and returned with a new charter, procured at an enormous expense—more than \$50,000. * * * *I happen to know* that to-day he had issued to every agent in this State a special written instruction to abide the anti-trust laws of Texas. * * * What more do you want? * * * I believed I had secured a triumph for the State of Texas by helping to bring the greatest trading corporation within our borders to the feet of the Attorney-General of the State. * * * *Don't blame Attorney-General Smith; don't blame Secretary of State Hardy; I assume all responsibility for the reintroduction of the Waters-Pierce Oil Company to Texas.*"]

Believing, as I did at that time, that the Waters-Pierce Oil Company was an independent and useful business enterprise, I advised the Attorney-General to compromise the judgment which the State had obtained against it for having made an illegal contract by requiring it to pay a fine commensurate with its offense against the law, and permitting it to continue its business. The Attorney-General refused to make that compromise, basing his refusal upon the ground that if he were willing to compromise, he had no power to do so under the judgment of the court. At his request I examined that judgment and readily concurred in his opinion.

I then told H. C. Pierce that the Attorney-General was right in refusing to compromise the case and that the only lawful course open to him was to dissolve his offending corporation, organize a new one, come into the State with clean hands, and obey the law. I returned to Washington and to my public duties. I did not know when the old corporation was dissolved or when the new one was organized, and I did not know when the application was made for the permit under which it re-entered the State.

The people of Texas are not required to decide this branch of the controversy merely on my statement. So recently as the joint debate at Houston between M. M. Crane and myself, the Secretary of State, who issued the permit, declared in the most absolute terms, before the great audience assembled there, that I had never mentioned to him the issuance of the permit under which the Waters-Pierce Oil Com-

pany re-entered Texas. The Attorney-General, upon whose legal opinion the Secretary of State acted in issuing the permit, publicly and repeatedly declared in his lifetime, that from the time of the interview in which he had refused to make the compromise which I had recommended, until after the permit had been issued and had become the subject of a bitter political controversy, I had never spoken a word nor written a line to him with reference to the Waters-Pierce Oil Company.

HAS BEEN CANDID.

Your next important statement appears differently in different newspapers. In several of them you say that your investigations develop the fact that I have not been candid with the people in stating my connection with the reintroduction of the Waters-Pierce Oil Company into this State, but your letter, as printed in *The Dallas News*, omits this imputation upon my candor and simply declares that your investigation had developed my connection, etc. As the statement appears under the first form in four or five different papers, and in only one under the last form, I assume that it was written as first quoted. So far from having concealed any facts or circumstances of my connection with the reintroduction of the Waters-Pierce Oil Company into this State, I have even laid bare before the people of Texas my private business transactions in the minutest detail in order to repel the charges and insinuations which were made against me by vicious slanderers. [But he always omitted his "private" transactions with Pierce.] I have never done or said anything with reference to the Waters-Pierce Oil Company and its affairs that I have not already stated publicly and repeatedly to the people of this State.

Your third important statement is made rather as an implication, when you describe my statement that I had tendered you my services, as "a misstatement." It is not a good practice to repeat conversations which occur between men, but a former letter, purporting to have been written by you, and at least signed by you, absolves me from the obligation which would, under ordinary circumstances, forbid me to repeat our conversation, and had any doubt remained in my mind as to my right to repeat that conversation in full, your last letter would entirely remove it.

CONVERSATION IN WASHINGTON.

When you were in Washington during the last session of Congress the newspapers reported that you were there seeking evidence from the Department of Commerce and Labor to establish the connection between the Standard Oil Company and the Waters-Pierce Oil Company. I called on you at your hotel and tendered you any assistance which I could render in that respect. You thanked me for my offer, but told me that the department had very willingly supplied you with all the information in its possession,

We then took up the question of the Waters-Pierce Oil Company, and you told me about having sent a reputable lawyer of this State, not connected with the Attorney-General's department, as your special representative, to Missouri to inquire fully into all the facts. After some discussion of the case in a general way, I told you that if the Missouri proceedings developed a state of facts, or if your inquiry, independent of the Missouri proceedings, elicited information which rendered it reasonably certain that you could conduct your case against the Waters-Pierce Oil Company to a successful conclusion, I desired to assist you in it. I told you, however, that if there was any doubt about your succeeding with the case, I did not want to have anything to do with it, because I knew perfectly well that if I should take part in the prosecution, and the State lost the case, my enemies would swear that I had injected myself into it for the purpose of helping the defendant. You agreed with me that such was true, or at least you expressed no dissent from what I had said.

You claim that what you have done, and all that you have done, was prompted by your sense of duty to the State. If anything were needed to convince all thinking men that your purpose in demanding the production of these papers was political rather than judicial, it could be found in the fact that you did not file that notice until after you had insured the postponement of the trial by filing an amended petition containing new matter, and after the defendant's attorneys had announced in open court that they would move for a continuance.

DONE FOR POLITICAL EFFECT.

Knowing that on account of the new matter contained in your amended petition the court would be compelled to grant the motion for continuance, you hastily filed the demand for these papers, although they could not be used in the case itself until next March, and the only way they could be used before that time was for their political effect. Besides this, if you have in your possession, as has been claimed by some of those connected with your department, these original papers, your demand upon the attorneys for the defendant to produce them was a mere stage play, and you could have offered them in evidence upon the trial without any previous demand upon the defense for their production. I am willing for the lawyers of this State to say what was the purpose of that proceeding. [Bailey has frequently admitted and complained since that the lawyers of Texas were against him. They are the best judges.]

If you must prove that the new Waters-Pierce Oil Company had assumed the obligations of the old one, you could have done that without injecting politics into the trial of your case. If you needed to prove that those who had been the attorneys of the old Waters-Pierce Oil Company had continued as the attorneys of the new one, you could have proven that fact by simply asking that question of the very lawyers who sat in the court room with you as the attorneys of the defendant. The court records of Travis County show that at least

two of the lawyers who are now engaged in defending the Waters-Pierce Oil Company were its attorneys in the old case, and you could have proved by the Secretary of State, who issued the permit, that John D. Johnson, who was the attorney of the old Waters-Pierce Oil Company, and is the attorney of the present Waters-Pierce Oil Company, was the very man who brought to his office the application for the permit under which that company is now transacting business in this State.

RIGHT TO HAVE AN ATTORNEY.

It is, however, a gross absurdity to pretend that you can strengthen your case against the Waters-Pierce Oil Company by proving that it had attorneys either before or after its dissolution and reorganization. Even a corporation has a right to the services of a lawyer in this country, and it is no evidence against its lawful character to prove that it had an attorney and paid him for his services. If, however, it is essential to your case against the Waters-Pierce Oil Company to prove that I have ever been its attorney for a day or in any single transaction, or that I ever charged or received one dollar from it for any service, your case must fail.

If it were pertinent and important for you to prove that the auditors of the Standard Oil Company audited the accounts of the Waters-Pierce Oil Company, the fact could have been established by any witness having knowledge of it. And if it be true that the Standard Oil Company does audit the accounts of the Waters-Pierce Oil Company, then there must be thousands of items which have been so audited and about which there can be no dispute. Yet in presenting, or in pretending to present in this instance, the evidence of this relation between two companies, you have chosen to rely, so far as your case has now been developed, upon items purporting to affect me alone, although it is obvious to every thinking man that those who furnished you this so-called evidence of accounts appearing in my name on the books of the Waters-Pierce Oil Company, and audited by the agents of the Standard Oil Company could have supplied you with evidence which could not have been successfully controverted, and which would have given no political complexion to the case.

THE VOUCHERS AND DRAFTS.

I come now to your questions about the vouchers and drafts and I shall answer each separately, and according to the order in which you have asked them. But before doing that, it will perhaps help to clarify the question in the public mind to restate exactly what issue is between *me and my enemies*. Six years ago I stated under oath to the Legislative committee that I had not acted as an attorney for the Waters-Pierce Oil Company in the matter of its complications with the State, and I further stated that I had not accepted any compensation for the recommendation of the compromise which I made to the Attorney-General. For the six weeks immediately preceding the last

election, I delivered a series of speeches in this State, in almost every one of which I repeated what I had said six years ago, and I further declared that I had never acted as an attorney for the Waters-Pierce Oil Company in any matter, nor accepted any compensation from it.

In these speeches, and at the same time, I declared that I had represented H. C. Pierce in many matters, and that I had engaged in various business transactions with him and for him, none of which related in any manner to the business or affairs of either the Waters-Pierce Oil Company or Standard Oil Company. No intelligent man in this State has forgotten that the very gravity of the charge which I was answering from the stump during the six weeks immediately preceding the election was a transaction involving a large sum in which H. C. Pierce was interested, and I said to the people that I not only acted as attorney in the matter of those Tennessee properties for H. C. Pierce and others, but that I had also acted as an attorney for H. C. Pierce in many other matters.

RELATIONS WITH PIERCE.

You cannot, therefore, contradict anything I have ever said by showing any business relations between H. C. Pierce and me. Before dismissing this phase of the question, it may be well for me to remind the people of this State that when I stated six years ago that I had refused to accept a fee for what I said to the Attorney-General about the compromise which the Waters-Pierce Oil Company then sought to make with the State, I did so not because I thought it was wrong for me, or any other reputable lawyer, to represent the Waters-Pierce Oil Company and accept a fee from it, because I then believed it to be an independent business, free from the ownership and control of a trust; but I placed my refusal to take the fee wholly and distinctly upon the ground that the service which I tried to render it was a friendly one and not a legal one. Nothing could have induced me to take a fee for recommending that a friend of mine should exercise his discretion in the way in which I advise. I was willing to state to a committee of the Legislature, as I did, that, my time permitting, I would have accepted legal employment from the Waters-Pierce Oil Company. How can any sensible man suppose for a moment what I had done, and at the time publicly and solemnly declare that I would do that very thing without the slightest hesitation?

I will also remind you and the public that this controversy had its origin in the representation of the Waters-Pierce Oil Company that it was an independent enterprise; that I relied upon that representation, and nothing was known about the Standard Oil Company's ownership of stock of the Waters-Pierce Oil Company until the fact was developed in the Missouri prosecution. If that representation had been true, as I believed it to be, no man would be so narrow-minded as to call in question any business relation between H. C. Pierce and me. Certainly I cannot be held responsible for facts or conditions of which I had no knowledge

BORROWED MONEY OF PIERCE.

I will now answer your questions. Your first question is:

"April 25, 1900, you received from H. C. Pierce \$3,300. This sum was subsequently returned to H. C. Pierce by the Waters-Pierce Oil Company and charged as 'account of Texas cases.'

"Was the sum given to you as a loan or as a fee? If a loan, has it ever been paid? If a fee, for what service?"

When H. C. Pierce asked me to intercede with the Attorney-General in behalf of his company, and I agreed to do so, he offered to pay me for the service, and I declined to receive any pay upon the ground, as I have stated above, that the only service which I intended to render was a friendly and not a legal one, and was not, therefore, such a service as a lawyer, with my view of his profession, would accept compensation for performing. He asked if I were not a lawyer, and I told him that I was, but I was one of the kind who practiced law, and not influence. I told him, however, that I was then on my way to Kentucky for the purpose of *selling* some horses to raise a sum of money that I needed, but that, in view of a political situation which would bring me back to Texas and which I had already explained to him when I told him that I would speak to the Attorney General while here, I might not have time to dispose of the horses while in Kentucky, and that if he would be willing to take my obligation and allow me to pay it *with interest*, I would consider the loan of \$3,300 a favor. [The principle was never re-paid, according to the books of the Waters-Pierce Oil Company, much less the interest.]

He loaned me the money, and I repaid every dollar of it to him *as soon as I sold the horses, which I did soon after Congress adjourned that summer*. I borrowed that money purely as a personal transaction between Pierce and me, as the voucher, which I understand, was stolen from his papers and is now in your possession, will show. That voucher not only shows that the transaction was between Pierce and me, but it expresses in the face of it that the money was received by me as a "demand loan." You are presuming very far upon the intelligence of Texas Democrats when you ask them to suspect that a lawyer would give a demand obligation for money if he were collecting it as a fee. An idiot knows better than to believe that a man gives an evidence of indebtedness when he is collecting a debt.

DECLARES IT A FORGERY.

Your second question is:

"On June 15, 1900, a charge was made in the books of the Waters-Pierce Oil Company of \$1,500 as paid to Henry & Stribling on account of expenses of anti-trust civil cases. Was not this sum paid by sight draft by you? You have stated that you did not draw on the Waters-Pierce Oil Company for such sum. Did you draw such a draft on H. C. Pierce or J. D. Johnson?"

I have never given a draft to Henry & Stribling for any amount on the Waters-Pierce Oil Company or on H. C. Pierce or on J. D. Johnson; nor have I ever given a draft to Henry & Stribling, or to either of them on anybody or for any amount. If you have in your possession such draft, or if there be any such paper in existence it is a downright and flagrant forgery. [The draft was drawn on H. C. Pierce, June 13, 1900, through a Gainesville Bank.]

Your third question is:

"You received \$200 on Nov. 23, 1900, which was charged upon the books of the Waters-Pierce Oil Company as on 'account of Texas cases.' Did you represent the Waters-Pierce Oil Company or H. C. Pierce in Texas in any cases except the anti-trust case? Was the sum paid to you by H. C. Pierce or the Waters-Pierce Oil Company?"

I do not recall this transaction, but I know that I did not receive this money from the Waters-Pierce Oil Company, because I never received any money from it. I assume that it was to cover my expenses in connection with some personal business of H. C. Pierce, which I attended. It did not relate to any business of H. C. Pierce in Texas, because, so far as I know, he has never had any personal business in this State. The amount involved and the date given must satisfy all reasonable men that it did not relate to the reintroduction of the Waters-Pierce Oil Company into the State, which occurred several months before the time you specify.

NEEDED \$1,750 AND GOT IT.

"On March 28, 1901, or about that time, you wrote a letter to H. C. Pierce, in response to which you received New York exchange for \$1,750. This sum was charged up on the books of the Waters-Pierce Oil Company as on 'account of Texas legal expenses.' Did you in this letter request a loan, or did you demand a fee? If a loan, has it been paid? If a fee, for what purpose?"

I do not remember, of course, the date of the letter which you ask if I wrote, but I do know that I wrote H. C. Pierce a letter requesting him to send me \$1,750, and I also remember that I needed the money at once and in order to save delay that might arise from his neglecting to send me his own check or overlooking the indorsement of exchange I told him to send me New York exchange at once and to make it payable to my order, so as to save the necessity of his indorsing it. I also know, however, that there is not a syllable in that letter which indicates in the remotest degree that the \$1,750 had any relation to the Waters-Pierce Oil Company or its business. I know, further, that the \$1,750 which I requested then, was a part of a loan which I had obtained from H. C. Pierce something like three weeks before that and the amount of which I did not draw from him in full at that time. The letter requesting the \$1,750 is not the only letter that I wrote Mr. Pierce, touching the disposition of that loan. And if you will compare the dates of the letter and the note, both of which I understand were stolen from the files of his papers and are

now in your possession, you will find that the loan as stated above was made something like three weeks before the letter was written requesting the \$1,750, which was a part of the loan.

NEGOTIATED \$8,000 LOAN.

"On March 1st, 1901, you executed your note for \$8,000 due in four months to H. C. Pierce. You received Pierce's check for the amount. He immediately had the amount repaid by the Waters-Pierce Oil Company. Has this note ever been paid? Has payment ever been demanded?"

My reply to that question is, that just before adjournment of Congress, in the spring of 1901, I arranged with H. C. Pierce to borrow \$8,000, which I expected to need for several different and small transactions during that summer. I executed my note to him for the full amount, which I obtained as I needed it from time to time, as I obtained the \$1,750 which I have explained in answer to your third question. Afterward and before that transaction which required an additional sum of money and which I arranged to borrow from a St. Louis bank with the indorsement of H. C. Pierce. That larger note was executed to H. C. Pierce, indorsed by him and negotiated to the bank, to which I paid it in full. [He was forced to admit on the stand that he did not know how this larger note of \$24,000 or \$25,000 was paid; admitting that at least a part of it might have been paid in "services"—influence.]

The \$8,000 note about which you inquire, was included in this larger note, and was paid as follows: The larger note, when negotiated to the bank, was passed by the bank to the credit of H. C. Pierce, and Mr. Pierce gave me his check for the difference between the \$8,000 note and the new loan, and thus to an absolute certainty if that \$8,000 note appears to have been paid by the Waters-Pierce Oil Company, the proceeds of it were stolen by some man connected with that company.

THE \$8,000 NOTE DISAPPEARED.

This seems to be very probably what happened, because when the \$8,000 note was paid by its inclusion in the new loan Mr. Pierce was not able to find and deliver it to me, but said he would find it and send it to me. After waiting thirty, or perhaps sixty days, without receiving that paid note, I wrote Mr. Pierce, reminding him that he had neglected to send it, and he replied, saying that he had not been able to find it, but he knew it was among his papers and as soon as he had time to look through his papers he would get it and send it to me, and he stated that I could hold his letter as his receipt that the note had been duly paid. I have that letter among my papers, and it is reasonably certain that a copy of it is in the copy book or files of letters kept by H. C. Pierce.

In replying to your questions, seriatim, I have purposely omitted any comment on your statement as to what appears in the books of

the Waters-Pierce Oil Company, because what I will say about each applies with equal force to all of them, and therefore I have preferred to answer that suggestion in a separate paragraph.

I have never had access to the books of the Waters-Pierce Oil Company, and therefore do not know what they contain; but I do know that if they import that the Waters-Pierce Oil Company had paid any money to me, directly or indirectly, every such entry is utterly and wholly false; and my opinion is that if such entries appear in those books the man who made them or who had them made simply robbed the Waters-Pierce Oil Company. Such a proceeding on the part of those in charge of books and papers of that company and H. C. Pierce would have been an easy one.

SUSPECTS ROBBERY.

For instance, the \$8,000 note which I gave to H. C. Pierce, and every dollar of which I paid, as recited above, could have been taken by an employe of that company and passed into its accounts as an expenditure of \$8,000, and that employe could have put that sum of money in his pocket, thus robbing his employer by a false entry to that extent. My opinion is that this precise thing was done, if such an entry appears in those books, and I believe that the reason H. C. Pierce was never able to find that \$8,000 note among his private papers after I had paid it was because it was passed to the Waters-Pierce Oil Company, and the money stolen by the man who ordered the entry made. But whether that entry appears on the books of the Waters-Pierce Oil Company, if it does so appear, whether the proceeds of the note were stolen, is a matter that does not touch me. Certainly the most stupid man must know that if I had felt even a sense of impropriety in my dealings with H. C. Pierce and I had been willing to violate the proprieties of public or professional life, I would and could have conducted transactions without reducing them to writing, or putting into the records of any corporation evidence of what I desired to deny or conceal. [He did not suppose his transactions were going into the records of the Waters-Pierce Oil Co., because he made them appear as personal transactions between himself and Pierce.]

ASKED TO SEE THE DOCUMENTS.

This brings me to the consideration of another matter. This morning I requested, in writing, permission to examine and to have copies of such purported vouchers, notes, checks, drafts or papers in your possession as pretend to reflect any transaction between the Waters-Pierce Oil Company and myself. I knew and stated that no genuine paper existed showing that I had received any money from that company on any account. The letter which I addressed to you is as follows:

"Austin, Tex., Dec. 6. Hon. R. V. Davidson, Attorney General, Austin, Tex. Sir: I am advised by the public prints and otherwise

that you have in your possession certain vouchers and papers, or copies thereof, purporting in some way to connect me with the Waters-Pierce Oil Company in regard to certain business transactions. I never had any business transactions of any kind with the Waters-Pierce Oil Company, and I never received one dollar from it on any account, and if any such vouchers, notes, checks or drafts exist, they are deliberate and criminal forgeries. I am today preparing an answer to the questions propounded in your open letter to me, and in order that I may answer once and for all the slanders and forgeries affecting my character on this subject, I request that I be allowed to examine such papers as you have in relation to these matters, and to have exact copies thereof, with all indorsements thereon. I know that no genuine paper thus affecting me is in existence, but I do not know what forgeries there may be, though I assume from your letter and purported statements from your department that some such forgeries do exist. If your purpose is to let the people of Texas know the truth, and you will give me access to such papers as you have, I will see that the people know the whole truth, and that you are definitely and positively advised of the character of the forgeries upon which all such slanders against me are predicated.

"So far as such papers purport to reflect any transaction between me and the Waters-Pierce Oil Company, or to show that I received any money from said company, they are each and all absolutely and wholly false, and forged for the purpose of injuring me.

"An immediate reply is respectfully requested.

"Very respectfully,

"J. W. BAILEY."

MAY LOOK AT THE PAPERS.

Your reply was as follows:

"Austin, Tex., Dec. 6, 1906. Hon. J. W. Bailey, Austin, Tex. Dear Sir: I am in receipt of your letter of this date delivered to me by Messrs. T. N. Jones and Jot Gunter, in which you express a desire to be placed in possession of evidence which is at my command before replying to the questions I have propounded to you in my communication of Nov. 30:

"You say: 'I never had any business transactions of any kind with the Waters-Pierce Oil Company, and I have never received one dollar from it on any account, and if any such vouchers, notes, checks or drafts exist, they are deliberate and criminal forgeries.'

"I have stated that you received several sums of money from H. Clay Pierce, formerly president of the Waters-Pierce Oil Company, which amounts were charged on the books of the Waters-Pierce Oil Company as expenses incurred with reference to the Texas anti-trust cases. You know whether or not you received money from Mr. Pierce, and I assume you have had opportunity to ascertain if the sums are charged as indicated, and that you are now

in a position to give the people of Texas the whole truth without the conditions named in your letter.

"If, in a written communication to me, you say you did not receive any of said sums of money from H. C. Pierce, I will, under proper conditions, to be prescribed by me, afford reasonable opportunity for the inspection of the papers in my possession.

"Yours very truly,

"R. V. DAVIDSON,
Attorney-General."

CONVINCED OF FORGERIES.

You will observe that the request made of you was much broader than the questions which you had propounded and the papers in relation to those questions. Having become convinced that you had in your possession papers which were forgeries, and assuming for the purpose of the questions propounded that you desired to deal fairly with me and fairly with the public, it was my desire to specifically answer every one in your possession at this time, so that the public could judge of the completeness of my vindication, and have the question forever settled.

Your declination is placed upon what you must have known, if you are familiar with the public prints, was an impossible condition. You must have known when that letter was written that I had stated in public speeches repeatedly that I had been employed by H. C. Pierce in many transactions as his attorney, for which service he paid me, and you therefore imposed a condition which you knew was impossible of performance.

I had hoped that you did not wish to descend from the exalted position which you hold to engage in a political warfare against me, and believed that you would not refuse to afford me an opportunity to examine papers supposed to be in your possession which I had denounced as forgeries, at a time when every effort of unscrupulous and designing enemies is being concentrated to blacken my character and reputation. If it be your purpose to use the power of your official position in an effort to destroy me by the use of papers which I know to be forgeries, if they reflect what I am informed through your questions, the public prints and otherwise, they purport to reflect, then as a manly man you should meet the issue squarely, and no longer prate about being filled with shame and sorrow concerning the existence of papers which I denounce to be spurious and which you refuse to let me see.

NEVER WATERS-PIERCE ATTORNEY.

Before concluding the reference to your letter, I want to state to you and to the public that your assumption that I have had an opportunity to ascertain if any sums of money are charged on the books of the Waters-Pierce Oil Company as expenses incurred with refer-

ence to the Texas anti-trust cases, or otherwise, is wholly gratuitous. I have never examined, or asked to have examined, any books, vouchers or papers of any character with reference to the business of the Waters-Pierce Oil Company, save and except the request made of you. I have never been its attorney; I have had no occasion to examine its books, and I have no information at all about what its books disclose. No discharged, discredited servant of the Waters-Pierce Oil Company has come to me with papers purporting to reflect the records of that Company; I have had no access to such papers, and you are the only person of whom I have ever made any request in relation to them.

Before concluding this open and public letter, I want to say to the people of Texas concerning my traducers, their motives and methods, that for the first time in the history of Texas politics the Democrats of this State have been called to witness an effort, not to defeat a candidate before a Democratic convention or Democratic primaries for a nomination, but a vicious, desperate and concerted effort to absolutely destroy a man who has served this State in Congress faithfully and well for fifteen long years, and whose service the true and loyal Democrats of Texas have rewarded with a practically unanimous renomination. If it could with any show of truth be asserted that I had ever sacrificed the honor or neglected the interest of my constituents, or that I had ever been recreant to the great principles of the Democratic party, I could then understand how Democrats would feel impelled by a sense of duty to our State and party to contest with all their power and resources my candidacy for another nomination.

WAR OF PERSONAL HATRED.

Unable to cite a single instance where I have failed in the discharge of my duties to our people or to our party, and while confessing that my services have not only been approved by the people who elected me, but have commanded the cordial respect of my party associates in Congress, my traducers can not convince the Democrats of Texas that this war on me is inspired by other than personal hatred or disappointed ambition.

While pretending to believe that I have been subjected to corporate influences, the most reckless of my accusers has not dared to specify a single vote which I have ever cast, or a single speech which I have ever made, to justify such a criticism. I know, besides, that the assaults upon my character and integrity have the cordial sympathy, if not the active assistance, of powerful interests whose special privileges I have resolutely opposed both as a member of the House of Representatives and as a Senator from this State. With an abiding faith, I appeal from the gross and bitter calumnies with which I have been assailed to the intelligence and patriotism of Texas Democrats.

J. W. BAILEY.

BAILEY TO DAVIDSON.

HENRY & STRIBLING DRAFT.

Dallas, Texas, December 8, (Galveston News, December 9th), 1906.—

Hon. R. V. Davidson, Austin, Tex.—Sir: I have read your letter which appeared in the newspapers this morning. It eliminates very much from the discussion by confirming what I said in my open letter to you. Indeed, the documents you print, so far from supporting the inferences which your questions were calculated to raise in the public mind, directly contradict them. You sought to make it appear that the \$3,300 mentioned in your first question was a fee paid to me by the Waters-Pierce Oil Company, but the memorandum you print establishes beyond the shadow of a doubt that it was, as I declared it to be, a demand loan made personally by H. C. Pierce to me.

Your question was also calculated to make it appear that even if Pierce made the loan to me, the Waters-Pierce Oil Company repaid the sum to him and passed it to its account as an expense; but one of the indorsements which, according to your memorandum, appear on the back of the voucher, which you claim that Pierce gave the Waters-Pierce Oil Company, shows that voucher to have been "charged to bills receivable." Every intelligent business man, of course, will know that when an item is charged to bills receivable it is held and treated as an item that must be paid. If this \$3,300 had been considered an expenditure by the Waters-Pierce Oil Company, it would have been charged either to the expense account or to the profit and loss account. [But the proof afterwards showed that the \$3,300 was charged from Bills Receivable to profit and loss.] The statement appearing in your own memorandum demonstrates that Pierce used his voucher as a bill receivable, to be paid by him in the due course of business.

I could point out other particulars in which the memoranda you publish negatives, like this, the presumptions which you sought to raise.

REFER TO BANK'S STAMPS.

But it is unnecessary to pursue this particular branch of the subject further, because there is one item in this controversy which ought to be accepted as decisive, and that item is the Henry & Stribling draft. This is the one point which you assert, and which I deny, that is susceptible of absolute and positive proof if the facts exist, as you have alleged them. If I ever drew a draft in favor of Henry & Stribling, or either of them, that draft will show on the back of it the indorsement of every bank through which it passed in the course of collection, and every bank through which it passed made an entry of it on its books. It must have passed through at least two banks—the one which forwarded it and the one which collected it.

Thus it is certain that if you have any draft in your possession you can tell from the indorsements on the back of it the banks through which it passed, and by a simple application to those banks you can find the transaction entered on their books. You can therefore establish by competent, disinterested and reputable witnesses that I gave this draft, if, in fact, I did give it.

WILL RESIGN IF CHARGE IS PROVEN.

Now, sir, if you can prove by any single bank that I ever drew a draft in favor of Henry & Stribling, or either of them, on the Waters-Pierce Company, or H. C. Pierce, or J. D. Johnson, or any other individual, firm or corporation for \$1,500, or for any other sum, I will resign my seat in the Senate and I will retire forever from public life. I will go further than this: If you can produce any order, receipt or memorandum in favor of Henry & Stribling, or either of them, bearing my signature, indorsement or approval, I will resign my seat in the Senate and retire forever from public life.

I never heard of a loan to Stribling by the Waters-Pierce Oil Company, or H. C. Pierce, or J. D. Johnson, and the purported telegram which you print about it was never mentioned to me directly or remotely by any man or at any time. I never mentioned to Mr. Stribling, nor did he ever mention to me, any loan or note or draft with the Waters-Pierce Oil Company, or H. C. Pierce, or J. D. Johnson, or any other person, firms or corporation.

[The reason why Mr. Bailey laid such stress on this \$1,500 draft was the fact that he, himself, had probably destroyed it in November, 1900, when Francis sent it to him together with the \$3,300 receipt that he had signed, thus enabling Bailey to destroy the only signatures that he had perhaps given Pierce up to that time.]

DOUBLE PAYMENT INDICATED.

There is one curious feature about the memorandum you print in reference to the \$1,750 item. It reads as follows:

"Waters-Pierce Oil Company, Henry Clay Pierce, St. Louis, Mo., June 10, 1901. Mr. J. P. Gruet, Secretary, Building: Dear Sir: Please send New York Exchange for \$1,750 to Joseph W. Bailey, Gainesville, Tex., and charge against legal expense account of Texas legislation.

"I sent this amount personally to Mr. Bailey in response to his enclosed letter of March 28. Since then Mr. Bailey has returned the amount to me and it is now proper for the company to make this payment. Attach Mr. Bailey's letter to your voucher and merely enclose the draft to him without voucher. His enclosed letter will be your voucher. Yours truly, H. C. Pierce, President."

Any casual reader must observe the inconsistency of this statement with your former question and with the undisputed fact. It represents Mr. Pierce as saying that he had sent this \$1,750 to me in response to my letter of March 28, and that I had afterwards returned

it to him, and then adds that it was proper at that time for the company to make the payment. It would be difficult to make a sensible man believe that I would call on Pierce for a fee of \$1,750 in March, then return it to him, and again collect it from his company. It is absolutely certain that I received \$1,750 only once and yet the above memorandum, if true, shows that I received it twice.

HAD DEALINGS ONLY WITH PIERCE.

In the beginning you charge that the Waters-Pierce Oil Company re-entered the State under my "guidance and direction." For six years my enemies have been pursuing me with this same allegation and all of them have failed, as you have failed, to produce a shred of evidence to sustain it. In fact you have practically abandoned it for the presentation of trivial and technical matters. Again, your original allegations implied, if they did not directly charge, that I had acted as an attorney for the Waters-Pierce Oil Company in the matter of its readmission and had received compensation for that service. There is not, and there never was a syllable of truth in that accusation; and for six years I have challenged my most inveterate and unreasonable enemies to offer evidence which even tended to establish it. I have said publicly and repeatedly that I have represented H. C. Pierce personally in many matters. All who heard my speeches preceding the election will remember that in discussing the Tennessee properties I declared that I not only acted as an attorney in that matter, but that I conducted many other transactions with and for H. C. Pierce. Nothing in your much heralded documents, some of them stolen, some of them forged, and still other irrelevant, confused and confusing disprove anything I have said. They not only tend to show that I have had business relations with H. C. Pierce, a fact that I had frequently myself asserted, and that I had borrowed money from him, which money I repaid to the last dollar.

CERTAIN SOME ARE FORGERIES.

You have talked much about your sense of duty to the State, but you do not seem to appreciate the duty which in common fairness you owe to every citizen of the State. The meanest convict, when arraigned before our courts upon any charge, is entitled as a matter of legal right to inspect any paper which the State attempts to offer in evidence against him. He is entitled to examine it for erasures and interlineations and to challenge its genuineness. You seem to think, however, that you can probably arraign me before the world and call on me as you did in your first open letter to answer questions with respect to papers which you denied me the right to see before I answered. I believed when I asked you for permission to examine those papers that they had been forged in whole or in part for the purpose of connecting me with a transaction of which I had no knowledge; and since reading the documents in print, I am certain

that some of them are forgeries. Even if in the beginning you believed those papers truthfully reflected a business transaction between me and the Waters-Pierce Company, you knew that you had received them from a man who had stolen them from the files of his employer and out of an abundant caution against doing me an injustice, you ought to have submitted them to my examination.

HE WHO FURNISHED THE DOCUMENTS.

Surely your experience as a lawyer and as a man must make you know that any man who will steal a paper would alter it or forge a new one if the one he had stolen did not suit his purpose. If you had no suspicion that you had been imposed upon by forgeries, you still had knowledge that you were dealing with a thief, and that the information furnished by such a man is seldom used by men in your position and should never be used without giving to those affected access to it.

Not only must you have known that the man from whom you obtained those papers had stolen them, but you must have also believed that same man to be a perjurer. I understand that you have instigated, or at least approved, an indictment against one officer [Pierce] of the Waters-Pierce Oil Company for having made an affidavit which is precisely the same as the one made afterward by the man who supplied you with this document.

I willingly leave for the decent and fair-minded men of Texas to say how much weight they will attach to documents furnished by a man who either robbed the files of his employer's office or forged the papers which you are using and the evidence of whose false swearing in order to deceive the officers of the State, is a part of the case which you have in charge.

J. W. BAILEY.

WRITING THROUGH THE NEWSPAPERS.

Senator Bailey arrived from Austin this morning and went to the Oriental Hotel, where he began the preparation of his foregoing reply to the Attorney General.

Among those who called on him were Hon. Samuel B. Cooper of Beaumont, Congressman-elect; Hon. George A. Carden, State Democratic chairman; Hon. J. C. McNealus, secretary of the State Democratic Executive Committee; S. B. Burnett of Forth Worth, State Senator Looney of Greenville, State Senator Barrett of Bonham, State Senator Alexander of Weatherford, Hon. James S. Dudley of Paris, former chairman of the State Democratic Executive Committee; Rev. George W. Owens, Rev. George C. Rankin, Hon. Nelson Philips, City Attorney J. J. Collins, W. F. Moroney, Capt. John Field and Col. John Waddy Tate, all of Dallas; Hon. W. E. Spell and John Stephens of Hillsboro and William Bacon of Greenville.

[With an occasional exception, just the same old crowd of political theologians and theological politicians.]

DAVIDSON REPLIES TO BAILEY'S ALLEGATION OF FORGERY.

Austin, Texas, Jan. 5, (Dallas News, Jan. 6), 1907. Attorney General Davidson gave out the following today:

It has been charged:

1. That I have in my possession, to be used in the trial of the Waters-Pierce Oil case, forged documents.
2. That I have had these documents many months, and that I have suppressed them for improper purposes.
3. That in the prosecution of the Waters-Pierce Oil Company I have affiliated with persons connected with the Standard Oil interests.
4. That I secured the postponement of the Waters-Pierce Oil case to prevent the development of the facts in that case at this time.
5. That I have agreed to settlements of certain anti-trust suits wherein the State was deprived of money to which it was entitled.

To these charges I answer:

1. The documents, vouchers and letters in my possession are originals and not copies. They are genuine.
2. I learned of the existence of these documents about Aug. 25, 1906, and I came into possession of them on Nov. 17, 1906. I never called on defendant to produce a single document which I had in my possession.
3. I have never at any time had any character of association or affiliation with any person connected with the Standard Oil interests.
4. The Waters-Pierce Oil case was continued upon the motion of that company over the earnest and vigorous protests of the attorneys representing this department.
5. The settlements in those cases were according to law and were just and proper. Neither I nor any of my assistants received a cent, directly or indirectly, from those cases, and the District and County Attorneys received only what they were entitled to under the law.

I invite the investigation of all my official acts by the Legislature, and especially my conduct of the Waters-Pierce Oil Company case and of the anti-trust cases which have heretofore been settled.

CHAPTER XII.

BAILEY'S SECOND INVESTIGATION (WHITEWASH) 1907.

DUNCAN INVESTIGATION RESOLUTION.

The Thirtieth Legislature of Texas was convened, at Austin, Tuesday, January 8, 1907. The first two days of the session were consumed in preliminary organization work, but on the third day thereof Hon. John M. Duncan of Tyler, joined by thirty-one members of the lower House, offered a resolution in the lower House, reciting the fact that Senator Joseph W. Bailey had been charged "through the press and in public statements and addresses" with "certain charges affecting the character and integrity of Hon. Jos. W. Bailey, candidate for re-election to the United States Senate from this State." Then followed a recitation of the major charges with reference to Mr. Bailey's long concealed connection with Pierce and the Waters-Pierce Oil Company in its re-admission to Texas in 1900, and Mr. Bailey's efforts in behalf of said Company in opposition to the adverse legislation offered in the Texas Legislature in the year 1901. Said resolution also recited Mr. Bailey's connection with John H. Kirby and the Kirby Lumber Company and the Tennessee Central Railway Company, as well as with the Security Oil Company and the Southwestern Oil Company. The resolution adverted, also, to Bailey's connection with David R. Francis and the purchase of the Gibbs \$100,000 ranch, in Dallas county, by Mr. Bailey through David R. Francis in 1900. All of which connections and transactions the resolution declared were improper and in violation of his duty to the people of Texas. The resolution concluded in these words: "Whereby and by reason of the aforesaid facts and circumstances so charged, it is further charged that the said Joseph W. Bailey has proved himself unworthy, disqualified and totally unfit for the position of United States Senator from the State of Texas."

ATTORNEY GENERAL R. V. DAVIDSON INVITES INVESTIGATION.

The Duncan Resolution (House Journal, p. 336-346) also recited the fact that Hon. R. V. Davidson and his official assistants had been charged as being engaged "in a conspiracy to injure, defame and defeat for United States Senator the Hon. Jos. W. Bailey," and that they were using "certain forged documents, letters and papers." Of course, nobody ever made these suggestions about Attorney General Davidson and his assistants, *except Bailey himself*.

The Duncan resolution, therefore, called for an investigation of both J. W. Bailey and R. V. Davidson with reference to these various matters and provided: "For this purpose a special committee of seven shall be selected from this House, to be chosen and nominated by the Speaker, to act with a like committee on the part of the Sen-

ate, should one be chosen by that body and so authorized." The Resolution further provided for the organization of a committee and granted it "all the powers now possessed by the district courts of this State," in the matter of securing testimony, and allowed the committee in question to sit in open session at any place within the State of Texas, in the city of St. Louis and in the city of New York; also that "the parties involved in said charges shall be entitled to be represented before said committee either in person or by attorneys, or by both, and shall be entitled to participate in the conduct of the investigation." This resolution was signed by the following members of the Lower House: "John M. Duncan, E. C. Gaines, R. L. Cable, B. F. James, Lea Beaty, J. A. Dodd, T. H. McGregot, S. E. Johnson, Jr., A. C. Wilmeth, Wm. A. Cocke, Joe A. Adkins, I. A. Daniel, S. E. Stratton, C. E. Gilmore, D. M. Reedy, W. A. Trenckmann, A. S. Crisp, E. A. Camp, Geo. A. Bell, Geo. B. Terrell, M. G. Jackson, C. H. Jenkins, John T. Currey, Jno. T. Browne, F. Werner, Claude M. McCallum, E. C. Lively, Will E. Orgain, Russell Savage, Phil H. Clements, C. E. Terry, I. A. H. Nelson."

The resolution was read and a second reading was called for. A. M. Kennedy, Bailey's floor leader, objected to a second reading of the resolution, which objection was over-ruled. He then raised a point of order that was sustained, and the resolution had to be laid on the speaker's table until the following day. Thus began the long legislative struggle to secure a thorough and complete investigation of Mr. Bailey's conduct on the one side, and Mr. Bailey's strenuous, persistent and significant efforts to avoid such an investigation.

The following contemporaneous comments and review show how vigilantly Bailey and his partisans fought, first, to avoid an investigation and, second, failing in that design, then to so circumscribe the same as to endeavor to shut off the light and block the way to the real facts. How nearly they succeeded, to the shame of Texas, is shown by the events which followed.

ATTITUDE OF BAILEY MEN.

AUSTIN, TEXAS, January 8, (Dallas News, Jan. 9), 1907.—*"The Bailey forces are opposed to an investigation; some of them have told The News correspondent that 95 per cent. of the House alone are opposed [to an] investigation, and that on joint ballot there will be something like 120 votes against an investigation, the total membership being 162.*

"During the recent campaign in this county, some of the Bailey speakers mentioned the fact that Austin would want appropriations for the State institutions located here. These remarks were interpreted as a warning that Austin might in the primary election injure its chances to get appropriations."

WILL CALL FOR A BILL OF PARTICULARS INSTEAD OF BILL OF DISCOVERY.

AUSTIN, TEXAS, Jan. 9.—No statement of the Bailey caucus was given out. The purpose, it is said, was to give the legislators a chance

to hear Senator Bailey. About seventy-five members attended, it is stated, and the sense of the majority was that a demand should be made upon those calling for an investigation to make specific charges of matters not already admitted, and that a resolution calling for a general investigation should be opposed; *in other words, that they should call for a bill of particulars instead of a bill of discovery.*"—Dallas News, Jan. 10, 1907.

"DILATORY TACTICS ADOPTED."

"KENNEDY LEADS FIGHT."

AUSTIN, TEXAS, Jan. 10, (Dallas News, Jan. 11), 1907.—"John M. Duncan attempted to call up the resolution and he led the fight in its behalf. * * * Thereupon Mr. Kennedy called attention to the fact that the time for consideration of resolutions had expired and so the matter went over."

After considerable preliminary cross firing, Mr. Kennedy said: "I raise the point of order that the resolution carries an appropriation and should therefore be referred to the Committee on Finances." This point of order was finally overruled whereupon Mr. T. D. Cobbs, the Southern Pacific Railroad land lawyer, moved "to postpone consideration of this resolution until next Wednesday," which motion was lost in a maze of preliminary wrangling. Finally Mr. Kennedy announced: "I make the further point of order that this being a simple resolution, the half hour for the consideration of resolutions has expired."

"THE SPEAKER—The point of order is well taken. (Applause from the Bailey faction.) This closed the discussion for the day. And thus the Senator's exposure was further prolonged.

AUSTIN, TEXAS, Jan. 12, House Journal, page 79.

"JUDGE DUNCAN—Mr. Speaker, * * * I move that the reading and reference to bills be now suspended.

"MR. KENNEDY (Bailey Floor Leader)—Mr. Speaker, I would like to know why the gentleman from Smith desires to have this done.

"JUDGE DUNCAN—Mr. Speaker, I desire to do it and will say to the gentleman from McLennan because it is my desire to have it done (great applause). [The purpose was to call up the Duncan Resolution *calling for an investigation of Mr. Bailey.*]

"MR. KENNEDY—It is my desire to have it not done. I desire to order the report of the Committee on Rules."

KENNEDY OFFERS A BAILEY SUBSTITUTE.

AUSTIN, TEXAS, January 11, (Dallas News, January 12), 1907.—Mr. Kennedy, the leader of the Bailey faction on the floor of the House, this afternoon gave out the following statement: Here followed an interview with Mr. Kennedy and then the text of the Kennedy substitute resolution, which contained twenty-two paragraphs of about 1,600 words, as given to the press for the public's perusal. The Kennedy substitute as actually introduced in the House, how-

ever, contained only eight paragraphs of about six hundred words, and thus were the people of Texas sought to be deceived as to just what the Baileyites in the Thirtieth Legislature of Texas were doing. Kennedy's Bailey substitute resolution was not only a substitute for the Duncan Resolution, but was a *subterfuge* as well.

BAILEY ISSUES A STATEMENT.

SAYS HE WOULD RATHER BE INDICTED AS A CITIZEN THAN INVESTIGATED AS A SENATOR.

AUSTIN, TEXAS, January 10, (Dallas News, January 13), 1907.—In order to overcome the State wide indignation at the opposition which he and his friends had exhibited toward an investigation, Mr. Bailey gave out a statement in part as follows:

"There is not the semblance of truth in the statement which has been sent out from Austin to the effect that my friends are seeking either to prevent or to delay an investigation [what a lie!]. I am more than ready to meet any charge that any responsible man may make against me and I will answer it without asking a moment's delay. [At Graham, Texas, December 31, 1906, Mr. Bailey said, 'There will be no investigation, *because there will be no man in the Texas Legislature that will be willing to stand up and say that he can prove anything to my discredit.*' If he was, in fact, willing 'to meet any charge,' why then did he always refuse to be examined by the proponent of the charges or by his attorneys?] * * * As I now recall it, Texas is the only Southern State that has ever thought it necessary to investigate the conduct of a Democratic Senator, [this is the first time it was ever necessary], and that alone would impress every thoughtful man with an idea that an investigation ought not to be proposed or ordered, except upon grave charges which those who made them would hold themselves bound to prove."

This opposition on the part of Mr. Bailey recalls very vividly the language used by him in the United States Senate in 1905 in his speech moving to expel United States Senator Burton from the Senate, in which address will be found the following language: "The rule is different here from that which prevails in the courts. There as a safeguard to the liberty of the citizen, he must have his guilt established beyond a reasonable doubt; *here the rule ought to be that he must free himself from all appearance of wrong doing beyond a reasonable doubt.*"

"The commonest negro in Texas cannot be tried for a petty theft except upon a specific charge preferred against him," continued Mr. Bailey, "and supported by the oath or affirmation of some witness. Certainly the Democrats of Texas do not regard the reputation of their Senator as entitled to less protection than the law affords to an ignorant and vicious negro."

An alleged crime committed by "the commonest negro in Texas," as well as the most exalted "Senator" from Texas, may be investigated by the grand juries of Texas without let or hindrance, just as

the Investigation Committee of the Thirtieth Legislature ought to have investigated and then returned its bill of indictment to the whole body of the Legislature to act as a petit jury.

"The Kennedy substitute," continued Mr. Bailey, "will reveal the fact that a more searching investigation can be conducted under the substitute than under the resolution [Duncan resolution].

* * *

When Mr. Bailey wrote those words, it should be remembered the Kennedy substitute had not been amended as they afterwards found it necessary to amend it in order to pass it. The substitute as advocated by Mr. Bailey when he made the above statement did not give the Committee power to sit anywhere else than at Austin, nor to summon witnesses, but only "to hear any witness or witnesses who may present themselves before said committee and file a charge or charges against Senator Bailey, which would affect his qualification as a Senator and render him unfit to serve in said capacity by reason of official misconduct or conduct that amounted to malfeasance in office and after hearing any credible witness who may present what the Committee may deem evidence of sufficient weight to fairly raise an issue on a disputed point between Senator Bailey and his critics, the said Committee shall without delay report to the House for its future action, the evidence offered, together with the nature of the charge on which it is based and the scope of an investigation warranted by same, *if any investigation in the Committee's judgment be deemed justified.*" (This was, also, the language of the Looney resolution as passed by the Senate and under which the Senate Committee acted.)

It will thus be seen that Mr. Bailey was not to be investigated at all under the substitute which he advocated, but proposed that *the committee might listen to any voluntary witness or witnesses and then recommend to the House* WHETHER OR NOT THERE SHOULD BE AN INVESTIGATION.

Mr. Bailey's statement continued: "The people of Texas cannot be deceived into believing that I desire to prevent or to postpone an investigation. * * * All the people of Texas will easily perceive that the substitute offered by *my friends* forms a wider and more searching investigation than the original resolution." Verily "our Joe" is a great reasoner, but a close analysis of his reasoning reminds the author of an article which appeared in the Kansas City Star in the fall of 1906, as follows:

THE TEXAS HUDIBRAS.

Senator Bailey of Texas has demonstrated at least one quality to support his earlier reputation as a "great constitutional lawyer." He has displayed a technical ability to advance distinctions which do not exist. This modern Sir Hudibras could not only "split a hair twixt south and southwest side," but he could box the compass in that process. With much vehemence this injured public servitor declared

in a public letter the other day that any person was "a liar" who would say that Bailey of Texas had ever received money from the Standard Oil Company. Under the pressure of necessity he now states that he was loaned \$150,000 by H. Clay Pierce, head of the Waters-Pierce Oil Company, which in turn is a subsidiary of the Standard trust.

Thus is Bailey vindicated; thus is truth acknowledged as sovereign in the Senator's bosom; thus is disclosed the cruel injustice which has been done to an able trust buster, and thus, by analogy, may one appreciate that established principle of justice that an indictment is defective which charges that the defendant killed a man with a pistol when it is clear that the victim was killed by the bullet.

One paragraph of Mr. Bailey's statement, above referred to, trying to explain to the public why he and his friends were opposing an investigation, was as follows: "I would rather be indicted as a citizen in private life than to be investigated as a Senator from Texas, and the fact that my exoneration will follow an inquest into my conduct would no more reconcile me to the investigation than the fact that a citizen, acquitted upon a trial, would be reconciled to having been indicted." This reasoning is fallacious and misleading, for Mr. Bailey as a Senator and a candidate for re-election had already been indicted on the stump and through the press of Texas and the Nation at the time he wrote those words and a thorough investigation of the charges so made and then pending could not add anything to his discomfiture if he was in fact guiltless and willing for his record to be laid bare to the world. The truth is, he knew that a real investigation would result in his conviction in the public mind, if not before his servile political henchmen in the Texas Legislature. He was using every artifice to defeat an investigation and to mislead the public by such statements as the above.

BAILEY MEN STAND PAT.

AUSTIN, TEXAS, January 13, (Dallas News, January 14), 1907.—"Mr. Kennedy denied that his side would offer to amend the substitute so as to authorize the committee to compel the attendance of witnesses." Such was the character of investigation desired by Mr. Bailey and his friends.

BAILEY SELLS HIS FARM.

Special to The News.

LEXINGTON, KY., Jan. 13.—Senator J. W. Bailey of Texas yesterday sold to Rear Admiral C. C. Todd of Frankfort, Ky., his farm on the Versailles pike near this city for \$24,000. The tract contains 100 acres and is known as the Freeman farm. It has been the home of Senator Bailey's trotting brood mares."

This was only one of his Blue Grass farms.

BAILEY TO THE PRESS.

AUSTIN, TEXAS, January 16, (Dallas News, January 17), 1907.—At a late hour Senator Bailey gave out a statement complaining that

he had not been permitted to look at the papers in the possession of the Attorney-General, claiming that the common criminal has the right to inspect the evidence against him. In this he seemed to forget that the criminal has no such right until he shall come to trial, however much the grand jury might inspect and consider the testimony in ascertaining whether or not it should return a bill of indictment.

Referring specially to the fact that his name appeared in the Waters-Pierce and Standard Oil Company's code book under the designation of [Senator] "Republish," Mr. Bailey excused the appearance of his name therein by saying "that idle telegraph operators and others should not be able to repeat matters which were intended only for parties interested. An examination of the code will show that my name was not printed in the book, but was placed there for the purpose of enabling Mr. Pierce to communicate with me and me with him. * * *

Of course Mr. Bailey's name was not printed in that book originally, because names were purposely left blank in the printing of the book in order that they might be filled in from time to time as their business with the company and its officers should require. In printing their code book, the Standard Oil trust could not tell for years in advance as to which United States Congressmen and Senators they would be able to use *in the future*.

"The only significant and controlling fact, however," continued Mr. Bailey's statement, "is that the Attorney-General now admits that he never had the Henry & Stribling draft. This was a vital and decisive item in the controversy." The Attorney-General never at any time claimed to have the draft but gave notice to the company that they should produce it. Bailey seemed elated on this, the 16th day of January, 1907, that he was able to show to the public, though falsely simulating in the premises, that the famous draft had not shown up in the papers, little expecting at that time that we would accidentally stumble on the evidence as we did on February 9, 1907, *that the draft had in fact been returned to Bailey himself*.

DAVIDSON EXHIBITS STANDARD OIL-BAILEY DOCUMENTS TO THE LEGISLATURE.

On the 16th day of January, 1907, the House requested Attorney-General Davidson to present for the inspection of the members the famous documents in his possession. This he did on the following day, accompanied by a written explanation of how, when and why he secured these documents. He left photographic and fac-simile copies thereof with the Clerk of the House and invited the members of the Legislature to individually inspect the original documents in his Department at any time. (House Journal, pp. 131-132.)

KENNEDY SUBSTITUTE AMENDED ON JANUARY 17, 1907.

Mr. Heslep, a Railroad attorney member of the House, offered an amendment to the Kennedy Substitute whereby the Speaker of the House was authorized to appoint a Committee of seven members with "power to administer oaths, compel attendance of witnesses and the production of papers, and shall immediately proceed to thoroughly investigate every specific charge that may be filed with them against Senator J. W. Bailey; provided, that no charge shall be investigated unless some member of this Legislature or other credible citizen of this State shall appear before the said Committee and file with it a written charge or charges setting out that he has good reason to believe and does believe that Senator J. W. Bailey has been guilty of some conduct, naming the same, which in the opinion of such person, should disqualify him or render him unfit to represent the people of Texas in the United States Senate. It shall be the duty of said committee to immediately make full and complete investigation of said charges, and it shall have power to summon witnesses and to compel the attendance of same, and to compel the production and exhibition of books and papers, and it shall have power to administer oaths and punish persons for contempt or for refusing to appear before them, and any member of said committee shall have power to administer oaths and to issue process for witnesses; and, provided further, that said committee may propound interrogatories and take depositions under the rules prescribed by law in the conduct of *civil cases* of witnesses who may reside out of the State and under such rules as the committee may prescribe."

It will be observed that this amendment to the Kennedy Substitute, which Mr. Bailey's partisans found absolutely necessary to prevent the passage of the Duncan Resolution, *really provided for an investigation instead of an ascertainment as to whether or not any investigation should, in fact, be conducted*, as was originally provided in the Kennedy Substitute. (House Journal, p. 134.) It will also be observed that this amendment provided for the taking of depositions, but when the Committee afterwards ordered depositions taken of certain unavailable witnesses, Mr. Bailey objected, and, of course, *the depositions were not taken*.

BAILEY REQUIRES "SPECIFIC CHARGES."

Furthermore it will be significantly noted that the Heslep Amendment to the Kennedy Substitute while providing for an investigation, instead of a mere inquiry as to whether or not an investigation should be conducted, nevertheless further provided "that no charge shall be investigated unless some member of this Legislature or other credible citizen of this State shall appear before the said committee and file with it a written charge, or charges, * * * and shall immediately proceed to thoroughly investigate every specific charge that may be filed with them against Senator J. W. Bailey." Bailey had

previously said that there would be no investigation "because no member of the Legislature would dare to come forward and file charges against him." Bailey's partisans had first, and at his behest, tried to avoid any investigation at all, inasmuch as they said that he had admitted practically all the facts involved in the controversy. Being driven from that position, they then proposed to appoint a committee *to find out whether or not an investigation should be conducted at all*. Realizing that they would have to still further strengthen the Kennedy Resolution in order to pass it through the lower House, they then proposed to have an investigation, only on condition that "some member of this Legislature or other credible citizen of this State shall appear before the said committee and file with it a written charge or charges."

BAILEY HAD SAID THERE WOULD BE NO INVESTIGATION.

At Graham, Texas, December 31, 1906, Mr. Bailey said: "There will be no investigation, *because there will be no man in the Texas Legislature that will be willing to stand up and say that he can prove anything to my discredit.*" While addressing the Legislature on the 17th day of January and trying to explain away the Waters-Pierce-Standard Oil-Bailey vouchers, Mr. Bailey said: "I want to look the man in the eye that will file charges against me." As a matter of fact he never did look the proponent of the charges in the eye nor would he submit to be examined by him or by his attorneys. (Invest. Com. Report, p. 983.) But the point here sought to be impressed, is the fact that Bailey and his friends required "specific written charges" in their last effort to avoid an investigation, thinking, as Mr. Bailey had said, that "no man in the Texas Legislature" would be willing to assume that responsibility.

BAILEY INVITED TO EXAMINE DOCUMENTS.

On January 17, 1907, T. D. Cobbs, another Railroad Legislator, moved the adoption of a resolution, inviting Mr. Bailey "to appear before the House at 2 p. m. today and be given the opportunity of making any statement he may desire with reference to the vouchers and documents exhibited in the House on yesterday." Thereupon Mr. Duncan offered the following amendment: "Provided Senator Bailey will in connection with such explanation ask this House to make a fair, thorough and unlimited investigation by this committee of all the facts connected with his conduct while Representative and Senator." The amendment was lost by a vote of 69 to 57. (House Journal, pp. 137-138.)

PREPARE TO ELECT THEIR SENATOR.

On January 17, 1907, the majority of a joint committee of the House and Senate, appointed for the purpose of arranging for the election of a United States Senator, consisting of Senators Willacy and Huspeth, and Representatives Bryan, Cobbs, and Robertson of

Travis, made their report. All of these were Bailey men, as afterwards appeared, although Robertson at that time was counted as opposed to the practices of Senator Bailey. It afterwards developed that he was the retained attorney of H. Clay Pierce in the matter of the latter's indictment for perjury or false swearing in Travis County, and also Attorney for the Kirby Lumber Company. And still later it appears that he became an attorney for the Security Oil Company, Bailey's client, in the suit against said company as an arm of the Standard Oil Company. This committee recommended that the House and Senate proceed to ballot for a United States Senator on January 22nd separately and that the Senate and the House should convene, in joint session, on January 23rd "for the purpose of declaring the result of the previous balloting."

MINORITY RECOMMENDS POSTPONEMENT.

Senator W. J. Greer, of Van Zandt County, that quiet, genteel, pure and venerable patriot, offered the following minority report: "We, a minority of your committee, appointed to report upon the mode and manner of electing a United States Senator at this, the first session of the Thirtieth Legislature, dissenting from a majority of your committee for the purposes above mentioned, file this minority report, and recommend that the election of a United States Senator be postponed from day to day until the committees appointed to act upon the investigation of certain charges against Senator Bailey shall have made report, and it shall be acted upon, and we further beg to report that in our opinion the Federal statute upon this subject is directory and not mandatory." (House Journal, pp. 139-140.) Thus the efforts to postpone Bailey's election until the charges could be investigated were futile, as his worshippers and hirelings were predetermined to elect him and afterwards to "exonerate him" though guilty of treason to the people, of falsehood and of perjury. Mr. Duncan moved to substitute the minority for the majority report but Speaker Love sustained a point of order raised by Mr. Hamilton, a Bailey partisan, by which a consideration of the Minority Report was precluded and the Majority Report adopted. (House Journal, pp. 146-148.)

PATTON SUPPORTS KENNEDY SUBSTITUTE.

I. A. Patton, of Alvarado, who was afterwards appointed by Speaker Love as a member of the whitewash committee, on January 17 made a vehement speech in support of the Kennedy Substitute. He afterwards had himself marked "present but not voting" when Bailey was elected. There were many who believed that this was a trick, understood in advance, by which it could be said that Speaker Love appointed three members of the committee who voted for Bailey and three against him and one was (?) "non-partisan." Robertson, of Travis, was counted among the three who voted against Bailey's election, but his vote counted for nothing in fixing his attitude be-

cause his own county, at a special election on January 5th, had instructed him to vote against Bailey, whereas he, in said primary, voted for Bailey. (House Journal, p. 149.)

BAILEYITES AGAIN FORCED TO AMEND THE KENNEDY SUBTERFUGE.

On the afternoon of January 17th, six Bailey members offered an additional vote catcher to the Kennedy subterfuge, by which it was provided that the proposed committee should "have authority, and it shall be its duty to authorize and empower two of its members to proceed to a point beyond the State of Texas, at which point said testimony can be procured, for the purpose of procuring same, and presenting same to the committee." (House Journal, p. 151.) But the sub-committee did not "proceed." When the time came for the sub-committee "to proceed" to St. Louis, to Washington, and to New York, as well as to other points to get additional evidence, including Pierce's testimony, Bailey told the committee that he must hurry back to Washington and be sworn in as Senator from Texas on the 4th day of March, 1907; *that Texas must not be without a Senator.* He arrived at Washington on the last day, in time to collect his \$700.00 mileage, having missed the entire session, although when he returned to Texas, December 2nd, he gave out an interview that he had "missed his train in St. Louis," but that it would take him just two days "to attend to Davidson" and to drive the balance of "his enemies, thieves, liars, scoundrels, hyenas, dogs, hessians, perjurers, socialists and anarchists," all into the Gulf of Mexico.

SPEAKER LOVE APPOINTS INVESTIGATION (?) COMMITTEE.

On Saturday, January 19, 1907, Speaker Thomas B. Love announced the appointment of O'Neal, Robertson of Travis (Pierce's lawyer), Cobbs (a Southern Pacific Railroad Company land lawyer), Jenkins, Wolfe (a vicious follower of the Standard Oil Senatorial disgracer of Texas), McGregor and Patton as the investigation committee to act under the said Kennedy Substitute as finally amended and adopted by a vote of 69 to 51.

COCKE FORMULATES WRITTEN CHARGES.

For several days it had become apparent that the Bailey faction would so amend the Kennedy subterfuge as to bring over a sufficient number of the members as to insure its adoption. During the debates on the Duncan Resolution and the Kennedy Substitute, one W. E. McConnell, of Palo Pinto County, a vociferous Bailey "rooter," made a violent and fiery speech in laudation of the Standard Oil Senator from Texas and in condemnation of those members of the Legislature who sought, on behalf of the people of Texas, to investigate Bailey's alleged misconduct. McConnell, while not sleeveless, was, nevertheless, coatless during his denunciatory harangue, in the course of which he charged the supporters of the Duncan Resolution as being "cowardly poltroons" and as not possessing sufficient grit and

nerve to file specific written charges against his idol. Then it was that the author determined if necessary to insure an investigation, to himself formulate and file the charges that had already become public property, or rather a public scandal. This was not expected by the Baileyites—*hence their very great dislike of the author since.* They have slandered, maligned and sought to discredit the proponent of the charges from Brownsville to the Panhandle, from El Paso to Texarkana, from Del Rio to Orange, because he did what he thought was his duty under the circumstances *and the very thing that Mr. Bailey and his supporters invited to be done.* Now, if Mr. Bailey was innocent and was, in fact, exonerated, *why is it that Bailey and his supporters do not thank the proponent of the charges for the unpleasant part that some one was forced to perform in order that the oil, slime and slander, as they claim, could be washed from the robes of their political lord and master?* Echo answers why?

CHARGES FILED SATURDAY, JANUARY 19TH.

Every word of the charges were written by the author on Friday and Saturday and were filed with Chairman O'Neal, Saturday evening, about 9 o'clock, January 19th. They were at the same time mailed to Senator Green, Chairman of the Senate Committee. Mr. Bailey and his subsidized forces, the Houston Post, Ft. Worth Record and Austin Statesman, have repeatedly said that the proponent of the charges was used as a tool by Bailey's more prominent enemies in Texas and that they prepared the charges. Such was not the case. The charges were written by the author and that without consultation with or suggestions from a single one of Mr. Bailey's then so-called enemies either in or out of Texas. The information upon which the charges were based had been collected from time to time since the exposures of the fall of 1906 and especially after the publication of the Waters-Pierce-Standard Oil voucher records in November, 1906.

There are those who have thought that fewer charges should have been filed, even though the whole number were true. If the proponent of the charges had known that the so-called investigation was to develop into a partisan suppression, he, too, might have taken that view, but supposing that a real inquiry into the truth or falsity of the charges, which were made on "information and belief" would be conducted, it was thought wise to finally and fully dispose of all the matters involved, to the end that the Senator might in fact be exonerated or convicted thereof as the proof should authorize.

Remembering how unfair Hon. D. A. McFall had been treated six years before by the Twenty-Seventh Legislature, which also conducted a mock investigation of Bailey in 1901, and seeing how unfair and unscrupulous were the methods of Bailey and his obedient dupes, the proponent of the charges reserved the right in filing them to withdraw the charges unless he should be permitted to be present, and assist in person, or by attorney, of his own selection, in the development of the facts. This feature will be discussed under the chapter entitled, "The Methods of the Committee."

BAILEYTES AGAIN REFUSE TO POSTPONE ELECTION.

On Monday, January 21, 1907, Hon. J. M. Duncan, floor-leader of the investigation forces, and Hon. Geo. B. Terrell, offered a resolution recognizing the fact that an investigation had been provided for and a committee appointed and charges filed. The House had already refused to adopt Senator Greer's minority report proposing to postpone the ballot for a United States Senator and the Speaker, having held that balloting under the United States Statute must begin on Tuesday, January 22nd, the Duncan and Terrell Resolution provided: "Resolved, That it is the sense of this House that we obey the Federal Statute in regard to the election of a United States Senator by meeting from day to day and balloting as required by law for a United States Senator, but that we use our best efforts to prevent the election of a United States Senator until a full, complete and thorough investigation is had upon all of the charges, as contemplated in the resolution, and report containing all of the material facts bearing upon the charges made, shall be presented to or adopted by this House; be it further

"Resolved, That it is not our intention or desire to defeat for re-election Senator J. W. Bailey, but it is our sole purpose to withhold our judgment and votes in this matter until all the facts are known and we submit that this can be done without violence to the law, without prejudice to Senator Bailey and with the highest regard for the best interests of the Democratic party and the welfare of the people, by simply casting our votes for some citizen of our own district who is not now a candidate for this office and who may never be seriously considered for such position, each voting for a different man, thereby scattering the votes and preventing the election of any man until the investigation is completed and all of the facts are before the House so that each member can act intelligently and base his vote upon the material facts brought out in this investigation; and, be it further

"Resolved, That in the event Senator Bailey is exonerated of all of the material charges against him, we hereby agree to support him for election and send him back to the United States Senate with all of the power and influence that the great State of Texas through her representatives can bestow upon him." (House Journal, p. 168.) This resolution was killed by dilatory tactics on the part of Bailey's partisans. (House Journal, pp. 168-172.)

BAILEY REFUSES TO GO BEFORE THE PEOPLE OF TEXAS.

On Tuesday morning, January 22nd, about two hours before the time for the election of a United States Senator, Hon. John M. Duncan, of the pro-investigation forces, sought to refer the whole controversy to the people of Texas, as shown by the following resolution: "Resolved, That it is the sense and judgment of this body that the issues involved in the choice of United States Senator, under the ex-

isting circumstances, should be determined directly by the entire membership of the Democratic party of this State, and to the end that their sovereign will may control, we recommend,

"1. That Senator Bailey shall, before the first ballot for Senator, send a communication in writing to this Legislature and pledge himself to immediately resign and renounce the office of United States Senator, to which he may be elected, if he shall be elected, and at once go before the whole body of the Democracy and give them an opportunity to pass upon his candidacy, with the understanding that the investigation of the pending charges and any others filed and accepted by the committee, shall proceed to a conclusion as contemplated by the resolution under which the committee was appointed.

"2. In the event that Senator Bailey shall adopt the course above suggested, we who vote for this resolution pledge ourselves to vote upon ballot today for his re-election and to urge and to use our utmost endeavors to secure such a period of time for the making of a campaign as will be acceptable to Senator Bailey, and also to abide by the result of said general Democratic primary as indicated by the majority of all the votes cast in said election, and to vote in accordance with the wishes of such majority. We further pledge ourselves to endeavor to secure action upon said result during the present session of the Legislature."

This resolution died a parliamentary death at the hands of Bailey's swordsmen, and thus were the people of Texas denied the privilege of passing upon Bailey's guilt or innocence, fitness or lack of fitness for the United States Senate. (House Journal, page 178.)

BAILEY ELECTED WITH CHARGES PENDING.

At 12:15 p. m., Tuesday, January 22nd, 1907, the House proceeded to the election of a United States Senator and the name of J. W. Bailey was placed in nomination by W. L. Blanton. J. F. Onion, of San Antonio, was among those who seconded his nomination. Among other things Mr. Onion said: "I earnestly believe that the great and peerless Bailey, the Bailey whom Texas loves, will come through this ordeal with honor unsullied, with reputation untarnished—with his fame undiminished. Bailey is for Texas. Texas is for Bailey. Stand by your instructions. Stand by Democracy. Stand by your constituents. Stand by the Democratic nominee. To-day will be memorable in the political annals of Texas. Our action today will be heralded wherever civilization exists. When the ballot shall be announced it will go forth to an eagerly expectant world, that Bailey the superb, Bailey the matchless, Bailey the incomparable, has been returned to the United States Senate from Texas." (House Journal, pp. 185-186.)

This "matchless" eulogy is calculated to call forth a smile of derision. Its ludicrousness is amusing. If Mr. Bailey had been or was now all that Mr. Onion claims for him, he would have come through the ordeal "with reputation untarnished—with his fame undimin-

ished." As a matter of fact, however, his name has become a hiss and a by word with unnumbered thousands of Texans and his prestige absolutely gone before the nation, as is shown by the editorial press comments of all papers and of all parties everywhere. Great is the pity! If Bailey's official life had not been one of sham and pretense and his fidelity to the people had been commensurate with his loud professions and with his acknowledged ability, he might have been President of the United States—likely he would have been, at least, the Democratic nominee for that great office. "As a man soweth, so also shall he reap."

BAILEY HAD TO PROMISE TO RESIGN.

Mr. Bailey received 89 votes in the lower House out of a total number of 131. At his election six years previous he had received every vote cast save four, and that, too, at a time that he did not claim to be the nominee. There is no doubt but that he would have lost this election except for the timidity, temerity, and cowardice of a considerable number of those who voted for him, because they did not have the courage to stand up boldly for what they knew to be right and trust their constituents to uphold them therein. Others voted for him for a reward, past, present or prospective, political, monetary or otherwise; others voted for him out of fear of punishment.

Still others voted for him because he promised to resign in case the investigation committee "found him guilty of any charge." Among those who voted for him on his promise to resign was Hon. S. W. Dean, as shown by House Journal, page 202, in which Mr. Dean recorded his reasons for his vote, as follows: "I vote for Senator Bailey because I believe a large majority of my constituents are in favor of his re-election. I am not instructed by primary election, but am not above substituting the will of my people for my own; on the contrary, desire to reflect their will in my vote. My own personal convictions are antagonistic to this vote, but Senator Bailey has given me his personal assurance that if the committee now investigating charges against him should find him guilty of any charge, and which finding should be sustained by the House or Senate, or if the House or Senate should pass a vote of censure or even want of confidence in him, that he would resign in thirty seconds. I therefore do not fear to vote for him." Mr. Dean afterwards voted against his exoneration.

OTHER MEMBERS GIVE REASONS FOR THEIR VOTES.

Hon. E. C. Gaines, of Comanche County, had been instructed to vote for Mr. Bailey by a second and recent primary in his county, which primary had been very lightly attended. Mr. Gaines was one of the most forceful orators and cogent reasoners of the Thirtieth Legislature. On House Journal, page 198, will be found Mr. Gaines' reason for his vote, in part as follows: "Such has been my view, and I have not changed my view. I also said that individually I was con-

vinced beyond a reasonable doubt that Senator Bailey was substantially guilty of all the infamous conduct with which he was charged. The vote has not changed my opinion in that respect.

"Such having been my position and promise to the people of Comanche County, I feel in honor bound to cast their vote for J. W. Bailey. In my judgment it is a grievous error, but it is their error, not mine. They have agreed to assume the responsibility, and I pass it up to them.

"In my own opinion, Bailey is not only unworthy of the great office of Senator, but he is absolutely infamous. I regard him as I do any other criminal. I cannot escape the conclusion that he is a traitor to his country who has betrayed his people into the hands of a commercial pirate for gold. Left to vote my own sentiments, I would gladly defy all his minions of infamy and vote against him; but a man must live up to his ideals. My ideal of good government is one in which the people's will is supreme. I think it better for a Representative to vote for a bad man; *yea, a moral leper as I believe Bailey is*, than to shatter an ideal of representative government, the observance of which is the hope of the Nation, and break faith with his people.

"Having discharged 'with scrupulous fidelity' my promise to my people, I desire to take my place for the future among those who despise and defy him."

Hon. J. C. Kindred, of Weimar, (House Journal page 201) used the following language: "I am not voting against Mr. Bailey, but for a principle involved, which is more ancient than the 'Golden Fleece' or the 'Roman Eagle.' *There are grave charges preferred and now pending against the Senator.* A full, fair and thorough investigation has been ordered by unanimous vote of the House, which is now being prosecuted by a committee of seven members of the House appointed for the purpose. Mr. Bailey is represented (as is his right) by at least three eminent and capable lawyers of his own selection and choice, while it has been substantially denied the State and Representative Cocke of Bexar, who filed the said charges, the privilege of representation by counsel, to be chosen, either by the House or by Representative Cocke. I did not come irrevocably committed to vote for or against Mr. Bailey, but I came believing such an investigation as has been ordered would be had and concluded before election day, and hoping that Mr. Bailey might be honorably discharged of all pending charges against him. That has not been done,—hence my conscientious vote to postpone."

Hon. C. H. Jenkins, expressed his sentiments as follows: "If the material charges against Mr. Bailey are not sustained by the evidence, I shall take pleasure in voting for him, if the election of United States Senator be then pending in this House. Texas will be proud to present to the United States Senate her illustrious citizen who has come through the furnace of political persecution, if such it proves to be; *but, on the other hand, if these charges be*

proven by competent and satisfactory evidence, and our idol be crushed by truth, we as the representatives of the people should, it appears to me, retain in our hands the power to brush from the pathway of Texas the fragments of clay, so that she may not be retarded in her march to that high destiny which awaits her in spite of the shortcomings of any man."

Hon. George B. Terrell, of Cherokee, gave utterance to his aversion to Standard Oil in these words (House Journal p. 205): "The music of the Standard Oil band wagon has no charms for me, neither does its cipher code book contain any secrets that the people should not know, and being deprived of an opportunity to know all the facts in this great conspiracy against the people before voting for a United States Senator, I therefore cast my vote for the Hon. S. P. Wilson of Cherokee county, a man who has never been 'investigated' and against whom no charge of corruption has ever been made."

WHY THE AUTHOR VOTED TO POSTPONE BAILEY'S ELECTION.

The author expressed his view of the situation (House Journal page 200) in the following language: "I vote against Mr. Bailey, pending the investigation proceedings, for the reason that I can not conscientiously vote for a man for the high office of United States Senator when charges of the character pending are being investigated; especially so when by scattering our votes we would postpone the election until the investigation committees have completed their labors and made their reports. Then, again, Mr. Bailey's opposition to an investigation raises a grave suspicion of his guilt, not to speak of the evidence now known to me, and not to speak of his own admissions.

"Then, too, I regard my duty to the State of Texas and to the people of the United States, under the National Constitution and under my oath of office, superior to the claims of any party *when questions of integrity and official honesty are involved*. That peerless and fearless patriot and noble Democrat, William J. Bryan, is a recent authority for the doctrine that the State is higher than a party. Such proposition is axiomatic.

"Injured innocence, when assailed, never minds the limelight of truth; guilt and guilt alone, seeks the dark alleys of oblivion and doubt. Innocence and honesty never plead technicalities, delays and limitations; guilt, and guilt alone, asks for dates and details, seeking at the same time to limit and control the tribunal in which the accused is forced to respond. The voice of conscience is the voice of the people; that conscience about which Thomas Jefferson wrote to Lafayette when he said concerning the rights of the people as against his instructions by the nobility: 'Burn your instructions and follow your conscience, as it is the only true clue which will eternally guide a man clear of all doubt and inconsistency.'

"Shall the voice of the people, which is but an echo from the throne of Divinity, be hushed and stilled today, or shall it find

patriotic reverberation in three million honest hearts as they cry out to us today: 'Texas and Texas Senators must be and remain spotless and free.' I take pleasure in casting my vote at this time for my boyhood friend, Hon. Guy S. McFarland of Bexar county."

On the following day, January 23rd, the House and Senate met in joint session to consummate Mr. Bailey's return to the United States Senate, in spite of the effort that had been made to have the pending charges thoroughly and impartially investigated prior to final legislative action in the premises. Thus was the senatorial shame of Texas all but complete. It reached its climax during the succeeding five weeks of suppression and intimidation as indulged in by Mr. Bailey and his servile tools. The House and the Senate Committees which had been appointed for the ostensible purpose of investigating his conduct, in fact, became partisan suppressors of the truth. In spite of their efforts, however, a perusal of the succeeding chapters will show that Mr. Bailey was shown to be guilty of every material charge alleged against him.

BAILEY'S POLITICAL MACHINE.

The following critical editorial, descriptive of some of Bailey's political machine building methods, appeared in the *Dallas News* of March 18, 1908. While the methods described have been freely used, the author is convinced that money, too, in the last few years, has played an important part in Bailey's game. The editorial, conservative and mild, is as follows:

"Senator Bailey is a fast friend to those who befriend him. It is doubtful if he has lost a single opportunity in twenty years or more to make up to any voter in Texas whom he happened to meet. He has put his arm around more ambitious young Democrats to assure them of his interest in them and his eagerness to help along their laudable ambition, speak in their behalf, to write his friends in support of their candidacies, to carry his county or district for them, to see that they secured chairmanships or places on committees, to take stock in their papers, to support their favorite candidates even as a favor to them—Senator Bailey has probably done more of this sort of thing than any other man of his day and generation. He has promised consulates and other good things out of hand to Texans who made requests for such favors. He has not lost an opportunity to thus endear to him and fasten to his "machine" every man or boy or woman in the State with whom he has come in touch. Of course he has been extraordinarily successful, not only because of the elements of selfishness and deceit usually found in politics of this character, but also because of his intellect, fine personality and presence, and the better qualities of heart and brain. Of course he has fastened to himself thousands whom he has not met by utilizing the influence of those whom he has served. By declaring his preference for a candidate for Governor, for example, he would not only secure the support of the relatives and friends whom such candidate could per-

suade; or by declaring "the Campbells are coming" at an opportune time he would silence or capture scores of the friends of another candidate for the same place. He has written letters, or kept his secretary busy at it, in the interest of a candidate for Lieutenant Governor and carried his county for him, and that friendly assistance with other kindnesses has bound to him the candidate whom he was always ready thus to serve. The list may be extended to include candidates for Congress, for the Legislature, and for even the county and local offices.

"In this way, rather than in the prodigal use of money, as in the boss-ridden States, has Senator Bailey built up in Texas a most powerful 'machine.'"

ANTIDOTES FOR BAILEYISM.

Every man possessing a proper appreciation of the relations and prizes of life, would rather possess the respect and loving favor of his fellow men, whether in public or private walks, than fame and fortune, than stocks and bonds, than houses and lands, than fertile farms and fleeting race horses.—*The Author*.

The extreme pleasure we take in talking of ourselves should make us fear that we give very little to those that hear us.—*Roche foucauld*.

O that estates, degrees, and offices were not derived corruptly, and that clear honor were purchased by merit of the wearer.—*Shakespeare*.

True courage is cool and calm.—The bravest of men have the least of a brutal, bullying insolence, and in the very time of danger are found the most serene and free.—*Shaftsbury*.

The truest courage is always mixed with circumspection; this being the quality which distinguishes the courage of the wise from the hardness of the rash and foolish.—*Jones of Nayland*.

Some among the children of men have been taught this homely truism: "Self-praise is half dog."—*The Author*.

The wicked flee when no man pursueth.—*The Scriptures*.

True courage is not the brutal force of vulgar heroes, but the firm resolve of virtue and reason.—*Whitehead*.

Moral courage is a virtue of higher cast and nobler origin than physical.—It springs from a consciousness of virtue, and renders a man, in the pursuit or defence of right, superior to the fear of reproach, opposition, or contempt.—*S. G. Goodrich*.

Courage consists not in hazarding without fear, but being resolutely minded in a just cause.—*Plutarch*.

The time was in the history of American Statesmanship, when men were proud to remain poor in public life; to serve their country with singleness of heart and purpose was an honorable service, and they were honorable and honored men.—*The Author*.

As the sword of the best tempered metal is most flexible, so the truly generous are most pliant and courteous in their behavior to their inferiors.—*Fuller*.

See how he sets his countenance for deceit, and promises a lie before he speaks.—*Dryden*.

It is a coward who fawns upon those above him.—It is the coward who is insolent whenever he dares be so.—*Junius*.

Cowards falter, but danger is often overcome by those who nobly dare.—*Queen Elizabeth*.

Congressman Reed and Senator Spooner found it necessary to retire from Congress to improve their private fortunes, as they were not willing to improve them at the public expense.—*The Author*.

Never will I engage, while in public office, in any kind of enterprise for the improvement of my fortune, nor wear any other character than that of a farmer.—*Thomas Jefferson*.

A coxcomb begins by determining that his own profession is the first; and he finishes by deciding that he is the first in his profession.—*Colton*.

A coxcomb is ugly all over with the affectation of the fine gentleman.—*Johnson*.

Whenever man commits a crime heaven finds a witness.—*Bulwer*.

From absolute insolvency to admitted affluence, seems an easy step to the peddler of official influence,—provided the peddler possesses brilliancy of the "Standard" variety.—*The Author*.

Man's crimes are his worst enemies, following him like shadows, till they drive his steps into the pit he dug.—*Creon*.

Criticism is the child and handmaid of reflection.—It works by censure, and censure implies a standard.—*R. G. White*.

Cunning is the ape of wisdom.—*Locke*.

Cunning pays no regard to virtue, and is but the low mimic of wisdom.—*Bolingbroke*.

Daniel Webster's questionable financial transactions, like those of a modern Senator (pardon the comparison), will detract from his good name for all time, and possibly cost him, too, the Presidency.—*The Author*.

CHAPTER XIII.

SUPPRESSION METHODS OF LEGISLATIVE COMMITTEES, 1907,**PRESENT:**

House Investigation Committee, consisting of: O'Neal, Chairman; Wolfe, Cobbs, Patton, Robertson (Attorney for H. Clay Pierce, and the Kirby Lumber Company) Jenkins, McGregor.

Senate Investigation Committee, consisting of: Senators Green, Greer, Skinner, Senter (which four would have reported Bailey guilty except that the Senate, foreseeing their verdict, summarily discharged its Committee without permitting it to report); Stone, Brachfield, Looney (pro-Bailey partisans, not investigators after truth); also Judge Poindexter as Attorney for Senate Committee.

Senator Joseph W. Bailey, and his three lawyers, Odell, Hanger, Jones.

William A. Cocke, Proponent of Charges, and his two Attorneys, Messrs. Cockrell and Crane, though the latter were both present at the same time but one afternoon; after which for some ten days one or the other was present. For more than a month, however, the proponent was without legal assistance inasmuch as neither General Crane nor Judge Cockrell could remain away from their practice for the entire time and no other attorney available to the proponent of the charges was acceptable to the Committee.

Let us review very briefly the incidents that occurred in the Texas Senate contemporaneously with the Legislative events in the lower House, described in the last chapter.

SENATOR E. G. SENTER STIRS TEXAS SENATE.

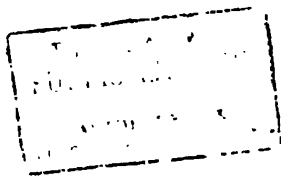
On January 11, 1907, Honorable E. G. Senter, State Senator from Dallas, Texas, introduced the Duncan House resolution in the Senate. Which resolution, the substitutes, amendments and the action thereon taken from time to time throughout the session by Bailey's machine in that body, marks the most inconsistent, treacherous and unworthy legislative conduct known to the annals of Texas history.

SENATORS MAYFIELD AND HOLSEY OFFER RESOLUTION.

On January 15, 1907, Senators Mayfield and Holsey offered the following resolution (Senate Journal p. 60): "*Whereas*, The Democratic party has from time immemorial declared itself as opposed to trusts and all kinds of combinations that seek to destroy the freedom and welfare of the people; and



WASHING OR WHITEWASHING ?



"Whereas, The Democratic party believes that trusts and monopolies are inimical to the best interests of the people; and

"Whereas, We believe that no man can consistently and conscientiously represent the people and at the same time represent the trusts, public service corporations and monopolies; therefore be it

"Resolved, That it is the sense of this Senate that no public servant should represent 'these interests' while in the service of his people."

Senator Looney, Bailey's chiefest lickspittle of the Senate, immediately moved that the above resolution be referred to the Judiciary committee of which he was Chairman and its subsequent burial was, of course, assured.

SENATOR SENTER MOVES TO REFER BAILEY ISSUE TO THE PEOPLE.

On January 22, 1907, Senator Senter moved an adoption of the resolution, requesting that Senator Bailey address a communication to the Senate in writing "and pledge himself to immediately resign the office of United States Senator and go before the whole body of the Democracy and give them an opportunity to pass upon his candidacy, with the understanding that the investigation of the pending charges shall proceed to a conclusion." The resolution further provided, in case of its adoption and Senator Bailey's acquiescence, that he should be given ample time in which to make a campaign, and pledged the supporters of the resolution "to abide by the result of said general Democratic primary, as indicated by a majority of all the votes cast in said election and to vote in accordance with the wishes of such majority."

Senator Chambers (another one of Bailey's "jumping jacks") immediately moved to table the motion, which was done by the customary vote of the Senate on all these Bailey questions, and the following Senators voted to give the people a chance, at that time, to say whether or not Senator Bailey was a true representative of the people or of the trusts which he had been delegated by the people to control and to which he had lent his influence and prestige in return for "personal loans" that were never repaid: "Faust, Glasscock, Green, Greer, Grinnan, Holsey, Mayfield, Murray, Senter, Stokes."

LOONEY OFFERS SUBSTITUTE.

In the meantime B. F. Looney, on January 14th, moved the adoption of his substitute for the Senter-Bailey Investigation Resolution which substitute did not provide for an investigation at all, but provided for a preliminary hearing by a Committee of the Senate, "and after hearing any credible witness who may present what the committee shall deem evidence of sufficient weight to fairly raise an issue on a disputed point between Senator Bailey and his critics, the said committee shall, without delay, report to the Senate for its future action the evidence offered, together with the nature of the charge on which it is based and the scope of an investigation war-

ranted by same, *if any investigation, in the committee's judgment, be deemed justified.*"

This is a fair example not only of the dilatory tactics but of the miserable subterfuges to which Bailey's partisans of both the Senate and the House were put in order, first, to delay an investigation, so that Bailey might be elected to the Senate on Tuesday, January 22, and second, to defeat an exposure of his improper connections and practices by a thorough and searching investigation.

Numerous amendments to this Substitute by which it was sought to obtain from the Senate the power to conduct a real investigation of Senator Bailey's conduct were promptly voted down by the Bailey partisans in the Senate, as was a resolution separately introduced by Senators Green and Skinner calculated to give Attorney General Davidson an opportunity to be heard before the Investigation Committee on the charges that Senator Bailey had frequently made against him and his department with reference to the vouchers, letters and documentary evidence connecting Bailey with the Waters-Pierce and Standard Oil Companies. (See Senate Journal pp. 51-60).

The Senate Investigation Committee was appointed on Tuesday, January 15, 1907, and the President of the Senate appointed the following seven Senators as a Committee to act under the Looney Substitute, which had been adopted in lieu of Senator Senter's Resolution calling for a real investigation of Bailey: "Senators Green, Looney, Senter, Brachfield, Greer, Stone and Skinner." It will be observed that this Committee was to report to the Senate after a preliminary hearing *"if any investigation, in the Committee's judgment, be deemed justified."*

SENATE COMMITTEE ORGANIZES.

It will likewise be observed that the Senate Committee had very much less latitude under their resolution than did the House Committee. Indeed the Senate Committee were instructed to report to the Senate *"the scope of the investigation warranted by the evidence offered and the charges made, if any investigation, in the Committee's judgment, be deemed justified."* Four members of the Senate Committee, Looney, Brachfield, Stone and Skinner, had voted for Bailey's election; Senators Senter and Greer had scattered their votes in an effort to postpone the election, and Senator Green had marked himself "present and not voting." Three members of the Senate Committee, therefore, were thought to favor a real investigation. As the investigation proceeded, Senator Skinner became convinced of Bailey's guilt and joined Senators Senter, Green, and Greer in an effort to ascertain the real facts.

The Senate Committee was appointed on January 15th; the House Committee on January 18th. The Senate Committee met and organized and concluded to employ Judge Poindexter, of Cleburne, to represent said committee in the investigation; agreeing, also, that the proponent of the charges might be present and propound any

questions that he might induce counsel for the Senate committee to ask.

HOUSE COMMITTEE ORGANIZES.

The Committee of the House of Representatives, appointed by Speaker Love, consisting of H. A. O'Neal, of Cass County, T. H. McGregor, of Harris, J. A. L. Wolfe, of Grayson, I. A. Patton, of Johnson, Robertson, of Travis, and Cobbs, of Bexar, met in committee room No. 1, January 19, 1907, and elected H. A. O'Neal chairman, and J. A. L. Wolfe secretary. Both of these were extreme Bailey partisans.

Robertson, Cobbs and Patton, all Bailey men, were appointed as a sub-committee on rules to govern the committee. (Committee Report, p. 4). The sub-committee brought in a set of ten rules which were adopted. Rule No. 3 was in part as follows: "The sessions of this Committee shall be held at such times as it may designate, and only the following named persons in addition to the members of this Committee and members of the Senate Committee shall be permitted to be present, to wit:

"The clerk of this Committee, who shall be a competent stenographer; the bailiff or his assistant; an assistant stenographer, if required; Senator Bailey and his attorneys; William A. Cocke may also appear with one counsel of his own selection for the purpose of interrogating such witnesses as may testify before the Committee; representatives of the press, and any person who may be personally affected by the evidence offered, while such evidence is being introduced or commented upon." (Committee Report pp. 4 and 5). It will be observed that the public was to be excluded from the hearings. It will also be observed that "William A. Cocke may also appear with one counsel of his own selection for the purpose of interrogating such witnesses as may testify before the committee." *This right was never in fact accorded.* The rule was afterward changed so that the proponent of the charges could not have "counsel of his own selection" except upon *the approval of the committee*. Neither was the proponent of the charges allowed to interrogate all the witnesses—notably the innocent Bailey, nor were his counsel allowed this privilege, as will be hereinafter shown.

CIVIL OR CRIMINAL PROCEEDING, WHICH?

The Kennedy Substitute, under which the committee was acting, provided: "Said committee may propound interrogatories and take depositions *under the rules prescribed by law in the conduct of civil cases * * **" (Committee Report p. 4).

Rule No. 4. also provided: "The rules of procedure, practice and evidence of the district courts of this State shall be observed." In civil cases in the district courts of this State and in all other courts or original jurisdiction, one party to a controversy may examine the opposite party under oath, without notice to such party or to his

counsel. Although the resolution and the rules of the committee recognized this as the usual proceeding, nevertheless Bailey and his counsel refused to allow the former to be examined until all of the witnesses had testified, as will hereinafter appear.

Rule No. 9 provided that Senator Bailey should not only be immediately furnished with a copy of all the charges—and this was entirely fair and proper—but they were careful also to provide that he should “at once” be furnished “with the name or names of such witness or witnesses.” Bailey’s lawyers were insistent upon this rule throughout the hearings, and when the witnesses arrived in Austin they were immediately “interviewed” by some voluntary and unpaid (?) tool of Standard Oil.

Rule No. 9 provided: “That the Senate Committee are invited to sit with the House Committee during the investigation.” (Committee Report p. 5). It will thus be seen that the two committees sat together, although they were acting under very different resolutions. The two committees, consisting of seven members each, were finally equally divided on the question of Bailey’s guilt. That is to say, four members out of seven of the House Committee reported that he was innocent; while four members of the Senate Committee would have reported him guilty had not the Senate, *seeing that such would be the case, summarily discharged its committee, without allowing it to make a report.*

SECOND COMMITTEE MEETING.

On Monday morning, January 21, 1907, the committee met in the court room of the court of criminal appeals on the third floor of the State capitol. Mr. McGregor offered an amendment to the rules as follows: “No. —. Any person who may have preferred charges, or who may hereafter prefer charges under the resolutions under which this Committee was appointed shall have the right to be present by himself and counsel, not to exceed two, while the charges so preferred by such person are under investigation, and such person or his counsel shall during such investigation have the right to examine witnesses and participate in said investigation.” (Committee Report p. 15).

“Mr. McGregor: I thought the rules as read would carry that right. But to obviate any question about it and settle it before we start into this investigation I submit this amendment and move that it be adopted as an amendment to the rules.”

Whereupon Cobbs, of Bexar, the Southern Pacific Railroad lawyer, was moved to remark: If we should have such a resolution as that passed, every man who might make charges against Senator Bailey and every person so making charges with a couple of attorneys representing them, this room would have to be enlarged and extended, possibly, to include the number of people who might make charges, and their attorneys who might come. This Committee has already acted. I oppose the amendment to the rules because the Committee

contemplated all we were to do upon the subject when the rules were prepared and submitted to the Committee, and the Committee discussed at that time how they would prepare for the investigation and who would be selected to make that examination. Of course, the man who is charged with an offense is entitled to be present and confronted with the witnesses and have his counsel present, but the Committee ought to be confined to its own members in this investigation. (Committee Report p. 15).

COLONEL JENKINS PROTESTS.

Mr. Jenkins: I understand that under the rules already adopted that Senator Bailey should have counsel present.

Mr. Cobbs: Precisely.

Mr. Jenkins: Now, Mr. Chairman, speaking to the amendment, the first objection offered, that it might include too many people and the room would not accommodate them, I do not so understand this amendment. "Any person who may have preferred charges or who may hereafter prefer charges under the resolutions under which this Committee was appointed shall have the right to be present by himself and counsel, not to exceed two, *while the charges so preferred by such person are under investigation.*" And he would have no right—if there were two or more persons who had preferred charges, the person who had preferred charges would have no right to be present except while the charges preferred by himself were under investigation. This room is large enough to accommodate the Committees, both of the House and the Senate, and our clerks, Senator Bailey and his counsel, and the party preferring the charges and his counsel.

Now, the gentleman says that Mr. Bailey and his counsel, as a matter of course, would have the right to be present. Yes, the Constitution and all procedures, so far as I know, in this and other civilized countries, accord to a defendant in any case, civil or criminal, the right to be present, but the same law and the same procedure, the same general custom, accords to the plaintiff in every cause the right to be present, both by himself and by his counsel, and I do not see why it is any more a matter of course that the defendant should be present than that the complainant should be present. Now, process has been issued in this case, the case of Cocke against Bailey. He is the complainant. It occurs to me that under the rules of procedure and of common fairness the plaintiff in the cause of action ought to be present, both by himself and by his attorneys. If I understand the rules of the Senate Committee, they virtually so accord the privilege, because they are to select attorneys for the prosecution, and, of course, they will select such attorneys as the gentlemen filing the complaint would desire. It would be but very little benefit to a party to say he should be present by his attorneys, if he could not get such attorneys as he desired to represent the cause. It occurs to me that in all fairness this resolution ought to be adopted. (Committee Report p. 16).

WOLFE SAYS NO PROSECUTOR NEEDED.

Mr. Wolfe: Mr. Chairman, I do not consider this the case of Cocke against Bailey. I do not really think that this Committee is here to try an issue between these two gentlemen. Surely, the House of Representatives would have no authority to appoint us as a Committee to come out here and settle a controversy between the gentlemen from Bexar and the United States Senator, or a Democratic candidate for United States Senator. This is really—I would not say that it was the people against Bailey, but I would say that it was simply a Committee appointed by the House of Representatives for the purpose of inquiring into certain charges that have been made. I do not look upon this as being a prosecution, and therefore I do not consider that it is necessary to have a prosecutor. (Committee Report p. 17) * * *

Now, I do not think that it is necessary to have any counsel, private counsel, retained by any private prosecutor in order to do that. I do not think that this is any place for exhibiting or ventilating any spite, spleen or malice. I think this proceeding should be conducted in a *dignified* manner. Now, I think this is a serious matter to talk about, that every man that might prefer charges should have a right to be present here himself with a couple of lawyers to represent him. One set of charges have been presented by Mr. Cocke—

Mr. Cobbs: Mr. Wolfe, to illustrate the point of what you and I have stated, will you please read this letter I have just received to the Committee?

Mr. Wolfe: At the request of Mr. Cobbs I read this letter: [Here followed a letter from a member of the former Investigation Committee.] (Committee Report p. 17).

Mr. Wolfe: (Continuing)—These charges that are preferred here likewise can be preferred by any other citizen of this State. Under the Amendment proposed, if Mr. A. should come in here and make the identical same charges that have been already preferred by Mr. Cocke, he would have as much right to be here in person and represented by two attorneys as Mr. Cocke himself would under the amendment, and so on. I do not think that this Committee should lay down any gap here that would permit the people, or any citizen of this State who has any axe to grind, or any spleen to exhibit, or any malice to manifest, or any desire to do injury—I do not think that any gap should be let down by which such an individual as that could come here and claim under the rules of the Committee a right to the floor and a right to be represented by counsel.

Now, I say this, Mr. Chairman, I am not averse to having a full, fair and complete investigation. [Why apologize or explain then?] If it is necessary to have a private prosecutor, then I am in favor of this Committee going down before the House this morning and requesting that it be permitted to *employ counsel*, some man of *dignity*, some man of honor, some man of standing, who will come here and

fairly and impartially represent the dignity of the State of Texas and not the malice of any coterie of citizens of this State. (Committee Report p. 18).

WOLFE DECLARED THE PROPONENT OF THE CHARGES HAD NO RIGHT TO BE PRESENT.

Mr. Jenkins: You do not contest the right at all of the party preferring the charges to be present, do you, under the rules?

Mr. Wolfe: I think that is altogether within the discretion of this Committee. I do not think it is necessary that he be present, and *I do not think it would be depriving him of any constitutional right to deny him the privilege, not a bit.* This is not a prosecution. He is not here as a prosecutor. He has filed on behalf of the House of Representatives of the people of the State of Texas, or any way that you may put it, a set of charges; has made that specific, which, according to the original resolution in the House, was charged in the papers and on the stump without naming anyone. Now, things that were charged in that resolution have been made specific. Other things that were not intimated in that resolution have been alleged and set up here. Now, those are the charges we are here to investigate. I do not think that is the case of Cocke against Bailey by any means. I think it is simply for the purpose of ascertaining the true facts by proper investigation. I would be opposed to the adoption of this amendment. As I said before, if the Committee deems it necessary, and believes to the end of justice and the proper ascertainment of the facts, that the counsel ought to be employed here to conduct the examination, outside of the members of the Committee, then I am in favor of going down before the House this morning and requesting that the Committee be specially given the power to employ someone. (Committee Report p. 19).

COL. JENKINS' REJOINDER.

Mr. Jenkins: This gives no one the right except the party preferring the charges, and at no other time except when the specific charges that are being preferred are being acted upon. That gets rid of the idea of having the room crowded with people, and if the gentleman who wrote the letter has a right to be present it is not under this amendment but under these resolutions, these rules already adopted.

The gentleman says that he does not consider this a prosecution upon the part of anyone, and yet the resolution adopted by the House does not allow this Committee to proceed with any investigation *until somebody shall take upon himself the office of prosecutor*, the office of informant, at least, or complainant. Now, it is true that we might have had resolutions otherwise adopted, and been appointed under other resolutions. It is true as a rule of parliamentary proceedings that anyone can proceed upon general information, "common things,"—using the language of the House of Commons. But the House has

not seen proper to proceed in that way and some person must become complainant. Recognizing that, rule second says: "If any person shall file any charge or charges before this Committee against Senator Bailey, that come within the scope and purview of the resolution under which it is acting, he shall, in so far as he is able to do so, give the names of the witnesses," etc. Now, unless some person does that there is nothing to investigate. We have been cut off by the resolution adopted by the House from the general parliamentary custom of investigating upon common things. *We must investigate, if at all, upon specific charges, upon the responsibility of some man.* Now, that being true, this is a procedure upon the part of a complainant, and cannot proceed without it. Recognizing that fact this Committee has adopted rule No. 2: The party filing the charge shall "give the names of the witnesses, together with a general description of any documentary evidence and the name of the person having custody thereof, by which said complainant making the charge believes that the same can be proven." Suppose he does that and then it comes before us, what do we know? Nothing except that he has given us the names of certain parties, and we have been able, by learning their addresses, to bring them before us. We do not know what would be expected, specially, to be proven by any witness. This rule proceeds upon the idea that the complainant does know. He furnishes the information in order to have him subpoenaed, and when he gets here, who knows anything about it? I am sure I do not. I know very little of this controversy. I have had neither the time nor the inclination, since its beginning some two months ago, to go into it. Unfortunately, I was not present during the discussion in the House last week, so that I have been cut off from that source of information. But this Rule No. 2 recognizes the fact that the party who files a complaint is in possession of, or he thinks he is in possession of, information and knows what a witness will testify, and how can we develop the case except he be present, and if he be present his mere presence will not assist us. He should be present either by himself to question the witness, or by his attorney. (Committee Report p. 20).

BAILEYITES DISREGARD HISTORIC PRECEDENT.

Mr. Jenkins: Now, this last suggestion that we go down and ask the House to authorize us to employ an attorney strikes me as wholly unnecessary. *It will involve the expenditure of money.* The gentleman says that attorneys who will volunteer ought not to be here. Why not? What are attorneys in a case for? They are present to represent the two sides. Attorneys are supposed to be partisans. Their very employment makes them so, and it has been found in the history of jurisprudence that the best way to arrive at the truth is to let each side present his case from his standpoint, and then let a judicial body, fair and impartial as this Committee is, pass upon it. But we do want all of the evidence, and in the wisdom of the jurisprudence of this country and all our procedure this is the way to get evidence before a

court—not simply to say we will have impartial men to present the case, but let the case be presented from each side as strongly as it can, and let impartial men pass upon it after all the evidence has been developed. I doubt not that these gentlemen are in favor of a full, fair investigation, but if they know any other method by which that can be accomplished except that that is suggested by this amendment, then they are ahead of the times. *The courts have never found any other method*, have never adopted any other method, except that of letting each side present its case as strongly as he can. (Committee Report p. 20).

PATTON PAWS THE AIR.

Mr. Patton: Mr. Chairman, I consider that we are here, this Committee, not as prosecutors or vindicators of Senator Bailey, but are here to have a full, fair, wide-open, exhaustive investigation of all charges that may be preferred or that already have been preferred against Senator Bailey. The rules as adopted—and they are right and proper in that respect—give to Senator Bailey the right to be present in person and by attorney. [Why was it proper and right for Bailey “to be present in person and by attorney,” and yet not allow the proponent of the charges the same privilege?] I believe that this Committee, instead of adopting that amendment, ought to employ an attorney, independent and outside of this Committee. (Committee Report p. 20).

WOLFE CRAWFISHES.

Mr. Wolfe: With the consent of Mr. Patton I would like to offer the following substitute while he is on the floor.

Mr. Wolfe offered the following:

“Any party who, in good faith, presents specific charges as required by the resolution may be present during the time such investigation is being had, and may suggest any questions to the party or parties examining the witnesses, which he may deem it necessary to be asked.”

Mr. Wolfe: I offer this as a substitute for the amendment offered by Mr. McGregor. (Committee Report p. 20).

They seemed fearfully alarmed lest the man who filed the charges might ask the witnesses, including the guiltless Bailey, some embarrassing questions.

It will thus be seen that the Baileyites were driven from one position to another and yielded not an inch of the ground, *except in the face of insurmountable opposition to their schemes of suppression.*

DALLAS ATTORNEYS OFFER THEIR SERVICES WITHOUT COST TO THE STATE.

The Chairman: * * * I will state, gentlemen of the Committee, that I received a telegram yesterday from some gentleman at Dallas, which I replied to.

The telegram above referred to is substantially in words and figures, as follows:

"DALLAS, Texas, January 20th.

"Hon. Hardy O'Neal, House of Representatives, Austin.

"The charges preferred by Representative Cocke should be fairly and fully investigated. The people of Texas have the right to know whether these charges are true or false, and Mr. Bailey has not the right and should not have the inclination to obstruct them in their effort to ascertain the facts. The proposed rules of procedure, as printed in the morning papers, by which your Committee is to be governed, are so restrictive and so hedged about, as to preclude the possibility of any such investigation as that which public opinion imperatively demands. *Such proposed rules are in violation of the commonest principles of justice*, not only prohibiting the party making the charges from appearing and participating in the presentation of the evidence in support thereof, but in excluding his presence from the Committee; whereas, he should be accorded the privilege not only of being present, but of active participation, and this, with the assistance of counsel of his own selection. Nothing short of an investigation so conducted can ever satisfy the disturbed public mind, and we insist that the proposed rules be so amended as to afford an opportunity for a real investigation; and in that event, we tender our professional services, without price, to assist Mr. Cocke in the presentation of the charges preferred, to the end that the facts may be developed and the truth ascertained. Kindly wire us at our expense, if our services will be accepted upon conditions specified. Please furnish Representative Cocke copy of this.

"W. L. Crawford, M. M. Crane, J. E. Cockrell, F. M. Etheridge, R. C. Porter."

Chairman O'Neal replied to this telegram: " * * * I cannot reply to your request without submitting it to the Committee which I shall do tomorrow morning at 10 o'clock * * * " (Committee Report p. 23.)

Mr. McGregor: I move that the offer in the telegram expressed, be granted.

The Chairman: Is there a second to the motion?

Mr. Cobbs: Mr. Chairman, *I raise the point of order. It cannot be granted*, because we have just established a set of rules, and a moment ago, voted a rule which denies that specific request, and I ask, raise the point of order that that would undertake to change our rules.

Mr. Odell: Mr. Chairman, while the Committee is at leisure, I would like to inquire with reference to the status of Mr. Jones, Senator Hanger and myself. We are here as the personal representative of Senator Bailey, some one of whom of us will desire to be here throughout the investigation.

* * * Mr. Odell: Pardon me just a moment, Judge, the ob-

ject of my inquiry at this time, was whether or not our presence here under the rules was in violation of the rules?

The Chairman: *No, sir; I understand you have the right to be present.*

Mr. Robertson: *I propose to make a motion that Senator Hanger and Mr. Odell and Mr. Jones be granted the full and free permission of this Committee, to appear here on behalf of Senator Bailey, either altogether or separately, as they wish.*

Mr. McGregor: I second the motion.

The Chairman: Gentlemen, you have heard the motion, are you ready for the question?

(Cries of "Question.")

The Chairman: If you gentlemen desire it read, it will be read. All in favor of the motion, signify by saying aye. (Ayes vote) Contrary, no. (No noes) It is a unanimous vote.

[How anxious they seemed to welcome attorneys Odell, Hanger and Jones to defend the Standard Oil Senator. Hanger and Odell have both, since the investigation, appeared as attorneys for the Waters-Pierce Oil Company in its litigations in Texas; Hanger's law firm of Capps, Cantey and Hanger, before Federal Judge Bryant, at Sherman, and Odell in the main suit at Austin.]

COCKE DENIED COUNSEL.

Mr. Robertson: The question pending is the proposition in the telegram and the reply.

The Chairman: Yes, sir; and we have sent for Mr. Wolfe.

Mr. Robertson: I would suggest this, that the point of order seems to me with all due respect to the ruling of the Chair and the views of the Chair, to be correct. It seems to be the wish of the majority of the Committee, four having voted for and three against it, that the substitute shall be adopted; that substitute denied the right of counsel to Mr. Cocke and it seems to me must be regarded as denying counsel on the outside, for the House Committee on that subject, and I think that we ought to stand by the rule we have adopted, unless we are going to repeal it, and I shall vote to sustain the theory of that rule myself.

The Chairman: If there are no further remarks, I will have the clerk call the roll and record the vote. I believe the motion is—

Mr. McGregor: Mr. Cobbs and Mr. Wolfe are both out now.

The Chairman: Mr. Cobbs, we are ready to take a vote. State your motion again.

Mr. McGregor: The stenographer has it there. The motion is that the tender of services by the parties, signing the telegram, to assist Mr. Cocke in preferring the charges, be accepted, their services be accepted, and they be permitted to be present.

The Chairman: Gentlemen, you have heard the motion.

Mr. Cobbs: I make a substitute in this form, that inasmuch as

the rules provided by this Committee do not admit of the tender, do not allow us to accept the offer, we therefore refuse it *with thanks*.

Mr. McGregor: That is an argument, rather than a substitute.

The Chairman: Do you offer that as a substitute?

Mr. Cobbs: Yes, sir; we would not want the gentleman to think we were not grateful for the offer.

The Chairman: The motion offered by Mr. McGregor is, that the tender of services on the part of the gentlemen of Dallas, in their telegram to me, that their services be accepted. The substitute offered by Mr. Cobbs is that the rules adopted by this Committee prohibiting such action, that we decline their services with thanks. (Committee Report, p. 25.)

PATTON WAIVERS.

Mr. Patton: I want both sides represented, Mr. Chairman, in this. I don't know exactly how to vote in reference to this. I believe there ought to be attorneys here representing the prosecution who are not connected with this Committee. There are attorneys here representing Senator Bailey who are not connected with it, and I don't want to place myself on record as opposing a full and fair investigation, and both the prosecution and defense represented by outside attorneys. I want to be exactly fair and just to both sides in this case, and then I want to hear the evidence, weigh it, and decide accordingly. *I don't exactly know how to vote.* I don't like to refuse the offer of those gentlemen, and I don't like to vote against it, but I thought as Senator Bailey has attorneys here on the outside to represent him, to represent what we call the defense, I do believe that the prosecution ought to have attorneys on the outside to represent that side, and it is the only way, I believe, to give perfect satisfaction, to the people at large and do justice.

Mr. Jenkins: I now offer an amendment to the motion of the gentlemen from Harris, the motion being, as I understand it, to accept the offer signed by the four attorneys, that we accept the offer as to two and let them decide which two.

Mr. McGregor: I accept the amendment.

The Chairman: I understand the question. Has any one anything to say on that proposition?

Mr. Cobbs: *I move to table the amendment.*

Mr. Patton: I second the motion.

The Chairman: The motion now before the House, is in effect, that we accept the services of the four gentlemen tendering their services from Dallas in their wire to me. There is an amendment offered by Mr. Jenkins that we accept the services of two of these gentlemen, the two to be selected by the gentlemen tendering their services, and Mr. Cobbs makes the motion that you table the amendment. We will vote upon the motion to table.

Mr. Jenkins: Ayes and noes.

The Chairman: Call the roll. Those in favor of tabling the

motion will signify by saying aye, and those opposed will say no. Remember, now, we are voting upon the amendment, the motion to table the amendment.

Upon call of the Committee, those voting aye were as follows: Patton, Cobbs, Wolfe. Those voting no were as follows: Robertson, Jenkins, McGregor.

The Chairman: How is the vote?

Mr. McGregor: A tie.

The Chairman: I vote aye. Now, it is upon the original motion, now, that we accept the services of these four gentlemen. (Committee Report, p. 24.)

WOLFE TO THE RESCUE (?) AGAIN.

Mr. Wolfe: Now, can I offer a substitute for the whole thing?

The Chairman: I suppose it will be in order. Put it in writing.

Mr. Wolfe: The stenographer will take it down. I make the motion that this Committee ask authority—authorize the Chairman to appear before the House and ask authority to employ counsel to represent the Committee in this investigation.

The Chairman: Who selects the counsel?

Mr. Cobbs: The Committee.

The Chairman: Mr. Wolfe offers a substitute to the motion that this Committee appear before the House and ask authority to employ counsel to represent the complainant in this proceeding before this Committee.

Mr. Robertson: Well, I second the motion of Mr. Wolfe.

The Chairman: You have heard the substitute Mr. Wolfe offered for the original motion. If there are no remarks to be made upon it, the clerk will call the roll.

Mr. Jenkins: I would just like to make this remark—

The Chairman: Yes, sir.

Mr. Jenkins: The only part of it I object to is that the Committee should select the counsel. I really think, if there is to be counsel, that *those who are on the other side of the issue ought to select them.*

Mr. Cobbs: The other side?

Mr. Jenkins: Yes; those who are pushing this prosecution, yes, sir, the prosecution. This Committee is not selecting counsel for one side, and I don't think they ought to for the other.

Mr. Wolfe: I look at it this way—

If we are to have counsel here, and I am not opposed to it, that that counsel ought to be some man who has not been identified with this controversy, and not known and recognized as a partisan in this matter, but some man of high character, ability, and standing, whose very name will give confidence to it, give faith in his labors.

[Why then did the Committee not select a "non partisan" lawyer or lawyers for Senator Bailey, instead of allowing him to select the most venomous of his followers, his proteges, his puppets and his tools?]

Mr. Cobbs: Does that resolution provide for compensation?

Mr. Wolfe: Yes, sir.

Mr. Robertson: Is the counsel to be employed? is it understood he represents the opposition to Mr. Bailey?

Mr. Jenkins: That he represents the charges that have been filed.

Mr. Robertson: The prosecution of the charges.

The Chairman: Or hereafter to be filed?

Mr. Jenkins: Yes, sir.

The Chairman: The whole charges?

Mr. Robertson: As I understand it, this resolution does not interfere, does not contemplate interfering with Mr. Bailey and his counsel, but is to employ *a respectable attorney* to represent the prosecution against Mr. Bailey.

Mr. Wolfe: Yes, sir; and is not to interfere with the right of any member of this Committee to ask any questions that any member wants to ask.

The Chairman: Yes, sir.

Mr. Cobbs: *I suggest, though, that you put a disinterested and non-partisan lawyer, and fix the compensation for him.*

Mr. Robertson: The employment, of course, would fix that, wouldn't it?

The Chairman: Yes, sir; I think if the Legislature leaves it with us about the employment.

Mr. Robertson: We necessarily would have the right to provide for his payment.

The Chairman: Yes, sir; do you all understand?

Mr. Cobbs: Mr. Chairman, I have been in favor of that kind of a motion all the time. (Committee Report p. 26).

The Chairman: Gentlemen, the clerk will call the roll now, and all in favor of the substitute, offered, I believe, by Mr. Cobbs. * * *

The Chairman: All in favor of the substitute, when the roll is called, will answer aye, and opposed no. The clerk will call the roll.

Upon call of the roll those voting aye were as follows: Robertson, Patton, Cobbs, Wolfe. Those voting no were as follows: Jenkins, McGregor.

The Chairman: Well, gentlemen, I suppose about the next business we can do before we proceed orderly now is to make arrangements about employing this counsel, and if there is no objection I will appoint Mr. Cobbs and Mr. Robertson to go before the House for this commission. * * *

The Chairman: The motion is carried, and now I will appoint Mr. Cobbs and Mr. Robertson to go before the House and ask for this permission that the rule, as adopted, provides for.

Monday, Jan. 21, 1907, 2 p. m.

Present: Cobbs and McGregor.

Mr. Cobbs: Let's consider that there is no Committee, and adjourn until O'Neal calls us back *and finish things down yonder.*

By "down yonder" Cobbs referred to the fight that was going on on the floor of the House over the proposition of the Baileyites, as submitted to the House by the Committee just appointed, looking to the employment of counsel on behalf of the Committee, and to the exclusion of counsel agreeable to the proponent of the charges. Let us therefore leave the Committee room and go "down yonder" where the fight between those who would ascertain the facts concerning Bailey's conduct, and the truth of the charges pending, and those who would suppress that truth, is in progress.

COBBS OFFERS RESOLUTION TO EMPLOY COUNSEL.

Cobbs, of Bexar, and Robertson, of Travis, having been appointed by the Chairman O'Neal for that purpose, proceeded from the Committee room on the third floor of the capital to the hall of the House of Representatives, on the second floor. House Journal, page 169 discloses the following proceedings.

Mr. Cobbs at this juncture of the proceedings (by unanimous consent), on behalf of the Investigating Committee, Mr. Duncan yielding the floor, offered the following resolution:

Resolved, That the committee appointed to investigate any charges that may be preferred before it against Senator Bailey shall have, and is hereby given full power to employ and arrange to compensate a competent lawyer to represent the committee and the House of Representatives in the investigation of any charges that may be made against Senator Bailey and to assist the committee in the development of the truth relating thereto.

(Signed) ROBERTSON, of Travis,
Cobbs.

The resolution was read, second time.

Question: Shall the resolution be adopted?

Mr. McGregor offered the following substitute for the resolution:

Whereas, Messrs. Crawford, Etheridge, Crane, Cockrell and Porter, reputable lawyers of Dallas county, have tendered their services to the Chairman of the Investigating Committee to develop the charges preferred against Senator Bailey without charge to the State: be it

Resolved, That said committee are instructed to permit said lawyers, or any two of them, to appear before said committee and participate in any investigation before such committee.

Mr. Cobbs raised a point of order on consideration of the substitute, stating that it was not germane to the resolution it proposes to be substituted for.

The Speaker held the point of order not well taken, stating that as a matter of order the substitute is germane.

Pending consideration of the substitute, Mr. Wolfe, yielding the floor, on motion of Mr. Gafford, the House at 1:10 p. m. took recess to 2:30 p. m. to-day.

PENDING BUSINESS.

The House resumed consideration of the pending business, same being the resolution by Mr. Cobbs, with substitute therefor by Mr. McGregor pending.

Question: Shall the substitute be adopted?

Mr. McGregor withdrew the substitute whereupon Mr. Duncan offered the following substitute for the resolution by Mr. Cobbs:

Resolved, That the party or parties preferring charges against Senator Bailey and filing same with the Investigating Committee, shall be entitled to appear before the committee by counsel of his own selection and by person and fully examine all witnesses and in all things represent the person filing charges as fully as if before a court of law; provided, such counsel shall serve without any expense to the State.

(Signed) DUNCAN,
SMITH.

Mr. Duncan moved the previous question on the resolution, and the motion was seconded.

Mr. Cobbs then withdrew the resolution from further consideration of the House.

Mr. Jenkins raised a point of order on the withdrawal of the resolution, stating that the resolution is the property of the House and should not be withdrawn without consent of the House.

The Speaker overruled the point of order.

Mr. Jenkins appealed from the ruling of the Chair.

The Speaker, waiving a second, called Mr. Robertson of Bell to the chair pending the appeal.

The Chair then stated the question: Shall the House sustain the ruling of the Speaker?

The ruling of the Speaker was sustained.

Speaker Love resumed the chair.

Mr. Duncan then asked unanimous consent of the House to offer as a resolution the substitute just offered by him for the Cobbs resolution.

Mr. Wolfe objected.

(House Journal p. 170).

It will be noted from the above that Cobbs seeing that the House would likely adopt the Duncan Substitute, *immediately retreated and withdrew his motion. Failing to get what he wanted from the House, he preferred to go back to the Committee where they had a safe majority on every proposition, however unreasonable.*

COCKE PLEADS FOR COUNSEL.

During the discussion in the House on the Cobbs Motion, empowering the Committee to employ counsel, the proponent of the charges, as a member of the House, took part in the argument and said: "This House has voted unanimously for an honest, fair, impartial investigation, and has invited some one of its members or some

citizen of the State, as a prerequisite to such an investigation, to present and file charges in the premises. I have thought it my duty under the circumstances to prepare some charges—not in malice, not as an enemy, *but doing what I conceived to be a plain duty that I owe to my people under my official oath.* I have written nothing, gentlemen, that I do not believe to be true; I have written nothing I did not know personally, or through reputable citizens, or through data—”

Mr. McConnell here interposed an objection that the remarks were out of order, but when Mr. Cocke protested, and the Speaker said he was unable to tell whether or not the remarks would be in order.

POSITION IS CRITICAL.

Continuing Mr. Cocke said: “I am only prefacing my remarks. I don’t wish to say one word that is improper. I know that the position of this House is critical. I know that my own attitude is critical. Whatever conclusions I have reached away from this hall, I shall throw away from me, and shall not utter one word here save what is judicial and proper and fair. *I do not know what has occurred in the Committee. I have heard that they will not admit the person presenting these charges.* That may be wrong. I think the person propounding the charges should be permitted to be present and given the opportunity to ask questions, or to have them asked through some one else. As I understand the situation now, the most I can do is to appear and ask some questions through members of the committee. I am not allowed to open my lips. On the other side, Mr. Bailey is allowed to select his own attorneys, *and that is right.* What gentleman of this House would be so unkind or unfair as to want to select Mr. Bailey’s attorneys for him in this matter? But this situation assumes circumstances similar to asking a District Attorney to ferret out the facts and formulate the indictment and present it and then tell him that he would have no right to be present, but if he is let in at all, he must tell another lawyer selected by a majority of the committee, which may or may not be friendly to one side or the other, to ask his questions. What chance would I have to unbosom myself and tell the facts to Mr. Bailey’s partisans, if such should be the case? *I have assumed the obligation you have laid upon some one and I should be permitted at least to select those gentlemen who have offered their services to the State for nothing.* It is due them to say that I have never met one of them except that I possibly met one of them in a casual way, and I am not sure but that it may have been his brother that I met. I don’t know them personally, but they are satisfactory to the party who filed the charges.”—(*Dallas News*, January 22, 1907.)

SUPPRESSION COMMITTEE RECONVENES.

At 5 p. m., on the same day as above, the Committee reconvened and the following proceedings were had:

The Chairman: What is the wish of the Committee?

Mr. Jenkins: It seems to me it would be in order to have a report from the Committee.

The Chairman: Is the Committee we sent to the House ready to report?

Mr. Robertson: Proceed, Mr. Cobbs.

Mr. Cobbs: *What is that story about going up the hill? (Laughter) We ask for further time.*

The Chairman: Do I hear any motion to extend further time to the Committee.

Mr. McGregor: I wish to frame a motion in accordance.

Mr. Cobbs: While I have not had time to talk with the Judge and with the balance, I understand the Senate has full power to employ counsel and to make the investigation, and I understand from our rules we have full power, as far as that is concerned. *We can get together and discuss that.*

The Chairman: I think the attorney for the Senate would have a right to ask any other questions when we got through, anyhow.

Mr. Jenkins: *It occurs to me that when a committee is appointed it ought to report.*

Mr. Robertson: They got up a big wrangle in the House about it. It seems to me that this Committee, with its power and its wisdom, or with the power and in the wisdom of its Chairman, can conduct this examination—I mean, can control it, it matters not who may conduct it—with that decorum and order and within the lines of propriety that a court could, and I cannot see any objection to Mr. Cocke, who has made these complaints here having—selecting him an attorney, if he wants to and can furnish one without cost to the State—I can't see any objection to letting the lawyer come here, and holding the lawyer within proper bounds.

The Chairman: Won't it be necessary to amend our rules?

Mr. Robertson: I think so, yes, sir. Let's agree upon some amendment and get rid of all this foolishness and get down to business. What do you say?

Mr. Cobbs: *Well, now, we will have to get off where we can jaw at each other.* [Cobbs was afraid the public might hear what he had to say and he wanted to "jaw" privately.] (Committee Report p. 28).

Mr. McGregor: Well, you are already together; just stay together.

Mr. Robertson: If Cocke wants to furnish a lawyer, what objection is there?

The Chairman: He can't come in under the resolution already passed, but you would have to amend the rules. The only trouble there has ever been about it before has been about bringing one in, and there was bad feeling between them and Bailey. [They were very tender about Bailey's feelings.]

COBBS PARTIALLY CAPITULATES.

Mr. Jenkins: That don't cut any figure. We see that every day in court. We can govern the decorum of this proceeding.

The Chairman: Oh, yes, sir; I don't doubt that; but I don't want to have to.

Mr. Jenkins: Well, I hardly anticipate anything like that.

The Chairman: Well, of course, whatever course the Committee takes, I will be satisfied with it.

Mr. Cobbs: I am inclined to this idea; that Mr. Cocke has a right to come before you and interrogate the witnesses. I am rather inclined to think that privilege may be given to him, *except in so far as Senator Bailey is himself concerned*. There, I do not think it would be proper, because their personal relations are such that it would be disagreeable. We might confer with him—pass this by and see if he wants to interrogate other witnesses himself, and as to Senator Bailey, why, allow him to secure an attorney who is not objectionable, and who is of high character, to interrogate him; but if he wants the right to examine other witnesses, to name the ones he wants to examine. I suggest that we request him to name the witnesses that he wants to examine himself, the testimony he wants to develop himself, and we reserve the right to act upon it—see what he wants exactly. [Remember that Mr. Cocke had never yet been permitted to appear before the Committee, and there was no "bad blood" between him and Bailey, so far as he knew.]

Mr. McGregor: You mean, Judge, to give him an attorney throughout the proceedings?

Mr. Cobbs: No, sir; I understand from the letter from him I read today—

Mr. McGregor: I understand, but I wanted your idea. I thought I was in position to accede to it.

Mr. Cobbs: My idea was to give him the right to examine the witnesses he brings here, *except Senator Bailey*.

Mr. McGregor: Don't you think we had better confine him? *he will protract the examination*. Why not give him an attorney to conduct his examination, and when he signifies a desire to interrogate a witness, have the Chairman pass on it at that time, as to whether we will indulge him that right or not.

Mr. Wolfe: I would like to say a word right here on that point. In the letter Mr. Cocke said: "These charges are filed subject to withdrawal by me unless the Committee will consent to my being present and freely propounding any pertinent questions desired to be asked by me." Now, when he handed these charges to the Chairman the Chairman accepted them, but told him that he would not consider them filed with that sort of a string tied to them; the Chairman took them and kept them, but did not consider them filed. On yesterday morning Mr. Cocke came to the Chairman in the hall down below and in my presence stated to him that he had filed them, and substantially that he waived that provision, *as I understood him to say*, of his letter. Now, I was informed a few minutes since by the Chairman that Mr. Cocke has been to him and stated to him that the Chairman and I misunderstood him; and therefore it would appear that the

charges are really filed subject to the condition stated. Isn't that correct, Mr. Chairman?

The Chairman: Yes, sir, that was the conversation which occurred.

Mr. Wolfe: Just a few minutes since. Now, in our actions this morning we did not so understand. I certainly understood Mr. Cocke yesterday that he withdrew that condition.

The Chairman: He did, most positively; there is no question about it.

Mr. Cobbs: *Well, you heard his speech down there?*

The Chairman: Yes, sir.

Mr. Wolfe: Now, today, he reiterates that he demands that before these charges are filed for action by the committee that the right which he demands in this letter, which is printed here and from which I have read, be given to him. (Committee Report p. 29).

COMMITTEE REPORT STILL DALLIES.

Mr. Jenkins: Mr. Chairman, I thought we were calling for a report from the committee we appointed to go down and ask them to allow us to employ a lawyer. I wish to know whether the House granted it or refused it.

Mr. Robertson: Don't you know?

Mr. Jenkins: Not officially. I was there, but from what I could see, the House neither granted nor refused it. The gentlemen, from some cause or other, without instructions from the Committee, *withdrew the motion they had been instructed to offer.*

Mr. Cobbs: *For peace.*

Mr. Jenkins: And I don't know whether the House will refuse or whether they will grant it; *they have never had a chance to say*, and we now have a resolution on our minutes instructing these gentlemen to get the sense of the House on that, and if they have not, I want to know why.

The Chairman: We might have some further reports from the committee, so as to get rid of that motion.

Mr. Robertson: Well, I will state, as far as I know about it, Mr. Cobbs and myself presented the matter to the House, embodying what we understood to be the wish of the committee, and they discussed it until I got tired of the matter and I went over into the Senate to see Senator Glasscock, not thinking that the discussion would be closed before I got back—it looked like they had taken hold of it for a week—but when I got back I understood the motion had been withdrawn. That's all I know about it. *Brother Cobbs, what do you know about it?*

COBBS CONFESSES AND RECEIVES HIS DISCHARGE.

Mr. Cobbs: When I got over there, the first thing was one of the members of the Committee undertook to instruct us another way from what had been stated and somebody else sent up a substitute for it and got it in there, *and it looked like they would get to the end of the dis-*

cussion, so I withdrew it, inasmuch as the committee had all the power necessary, and I could not see my friend anywhere, and I concluded the best thing for me to do was to cut off debate and come back where we had ample powers and I withdrew the resolution. It can be presented again at some future time by Judge Robertson.

Mr. Robertson: Suppose we ask to be relieved?

The Chairman: If there is no objection, the committee will be discharged.

Mr. Wolfe: Mr. Chairman—

Mr. Jenkins: A point of order. The resolution is before the House, and I ask the Chair to appoint another Committee which will get the sense of the House on it.

The Chairman: I will do so on motion properly before the Committee.

Mr. Jenkins: I move that the Chair appoint a committee of two to get the sense of the House on the resolution we have made.

Mr. McGregor: I second the motion.

Mr. Wolfe: *I move that the Committee be discharged.*

The Chairman: The Committee is already discharged. It is now for the appointment of another one to get up another row in the House, I suppose—I don't know what the effect of the resolution will be. Has anyone got anything to say? All in favor of it say "aye;" all opposed, "No." The "Noes" seem to have it and the motion is lost. (Committee Report p. 29.)

THE WOLFE AGAIN IN EVIDENCE.

Mr. Wolfe: Now, Mr. Chairman, I move an amendment to the rules. * * * No, sir; no, you know this morning we provided that Mr. Cocke should be permitted to be present. * * * The amendment which I offer to the rules is this, if you think it is sufficiently definite: I want to add, "and shall be permitted to interrogate the witnesses who shall testify before the Committee."

Mr. Jenkins: How is that?

Mr. Wolfe: That he should be permitted to interrogate witnesses who were called to testify before the Committee.

Mr. Cobbs: On charges made by him?

Mr. Wolfe: Yes, sir; on charges made by him.

The Chairman: Now, does that include Senator Bailey?

Mr. Wolfe: Yes, sir.

Mr. Cobbs: Include him?

Mr. Wolfe: Yes, sir. [How terrible it appeared to Cobbs that they should think of an amendment to allow Cocke to interrogate Bailey!]

ROBERTSON RECONSIDERS.

Mr. Robertson: I will offer this amendment to the amendment offered by Judge Wolfe. If you want this thing to have every appearance of fairness—not only the appearance of it, but to be ac-

tually fair—now, we passed a resolution that Mr. Bailey may have before this Committee three attorneys of his own selection. If there are not two sides to this question, then we have no question here. If there are two sides, both sides of it ought to be represented, and anything short of that will subject the whole thing and the Committee and everybody else to criticism, such as neither party to the controversy, nor any member of the Committee wants or desires, I am sure. I believe that Mr. Cocke ought to be allowed by the Committee, if he desires to do so, to provide himself an attorney, who shall cooperate with him in this matter, without expense to the State. I believe that is fair, and I believe that anything short of that *will not be regarded as fair by the public*. I don't care whom he employs.

The Chairman: You offer that amendment?

Mr. Robertson: Yes, sir; I don't care whom he employs. If he employs anybody who is obnoxious, this Committee has power to hold him in line and make him deport himself as a lawyer should in the court house. I don't know anything about whom Cocke wants; I have had no consultation with him; I have never talked to him about his charges, or anything that he does want—I don't know anything about it, but I believe that is fair, and I believe anything short of that is not.

Mr. Wolfe: Mr. Chairman—

Mr. Robertson: I think Mr. Wolfe will accept that amendment.

Mr. Cobbs: Mr. Cockrell, Attorney General Crane, Etheridge and Mr. Porter, I believe, signed a telegram—and Crawford—offering their services. Now, as we don't want all of them here, and we only need one of them, for my part I am willing right now to allow him to designate Mr. Joseph Cockrell to represent him, in connection with the remarks made by Judge Robertson.

Mr. Jenkins: *Mr. Chairman, I don't think we ought to dictate to him whom he should designate. If he is entitled to an attorney, he is entitled to an attorney of his own choice.* Mr. Cockrell may be that man and he may not.

Mr. Cobbs: *I don't offer it as a dictation at all.*

Mr. Jenkins: I want to know by what pretense of fairness we would even pretend to suggest whom he should employ. If he presents a man here that is unworthy of the dignity of this Committee, we know how to protect ourselves, and, if he does not, that's the end of it. Now, I am in favor of his having, not only one, but two—the other side has three—and that he shall designate them. We will protect ourselves if he don't bring worthy men. I believe that is fair, and I believe the House would have voted for that resolution that was offered as a substitute. That was the substance of it, and after the previous question had been ordered it was withdrawn, without any authority of the Committee, so far as I know.

Mr. Cobbs: Why didn't you object, then?

Mr. Jenkins: I didn't want to make myself prominent in the

matter. I want to say this: I have never attended a caucus since I have been here; I have taken no part in it, and I didn't want to be a member of this Committee; I don't want to be put in the attitude of a partisan, because I have never attended a caucus of the anti-Bailey forces, but in all fairness I will go to the extent of offering that resolution in the House, if this Committee will not concede to me what appears to be so fair. If the House don't give it, that's all right.

THE WOLFE HOWLED BUT THE COCKE IS ADMITTED,—CONDITIONALLY?

Mr. Wolfe: Mr. Chairman, here is what I want to say: I don't understand that Mr. Cocke has ever asked the Committee to appear here as counsel. I do not concede that he has any right to appear here as counsel, or employ counsel to appear here to represent him. As I said this morning, this is not a case of Cocke against Bailey, and I don't think he has got any such right. This Committee might grant him *the privilege*, that is true, but so far as I know, Mr. Cocke has never made any such request. He has filed certain charges here—he has filed them on condition; he said: "Unless you comply with this condition I will withdraw those charges." Now, what are the conditions? He says, "These charges are filed subject to withdrawal by me unless the Committee will consent to my being present and freely propounding any pertinent question desired to be asked by me. My only reason for asking to be present and permission to interrogate the witnesses lies in the fact that the charges are grave and I do not care to assume the responsibility without having an opportunity of developing the facts. Neither is it practicable for me to submit a list of questions to be propounded by other gentlemen." Now, he seems to want to do it himself. Now, my motion is not only to let him be present and ask questions, but to gratify what seems to be his heartfelt desire of coming before the Committee and freely interrogating each witness put on the stand. Now, if we are going to do what he wants, why should we do something that he has not asked?

The Chairman: Well, gentlemen, the motion before the House now is that the Honorable Mr. Cocke be permitted to interrogate all witnesses during the course of this investigation.

Mr. McGregor: Judge Robertson amended that.

The Chairman: Judge Robertson offered an argument.

Mr. Robertson: I will amend it now, that Mr. Cocke be authorized now to attend the sessions of the Committee in person, accompanied by such attorney as he may select, who shall have the privilege of examining the witnesses on the charges, provided the attorney he selects brings no expense, or incurs no expense by reason of the employment.

Mr. Jenkins: I second the motion.

Mr. Robertson: And that he shall file with the Committee the name of the attorney that he selects to conduct his examination.

Mr. McGregor: Subject to the approval of the Committee.

Mr. Robertson: Yes, sir; subject to the approval of the Committee.

The Chairman: Now, the motion of Mr. Wolfe is that Mr. Cocke be permitted to attend the meetings of this committee and to examine all witnesses that testify. The amendment offered by Mr. Robertson is that he not only be allowed to attend the meetings and propound questions, but he also be permitted to employ counsel at his own expense or without expense to the State, who shall have the same privilege.

Mr. Patton: Mr. Chairman, does that mean—

The Chairman: And that the name of the attorney so selected, that he shall file the name with the Committee, that we may know who he is.

Mr. Cobbs: Before he comes?

The Chairman: Yes, sir; before he comes.

Mr. Patton: That is in reference to all charges preferred by him?

The Chairman: Yes, sir; are the gentlemen ready for the question?

Mr. Cobbs: The question.

The Chairman: The clerk will call the roll. All in favor of the amendment of Mr. Robertson will signify it by saying "Aye" and the contrary, "No." Call the roll.

The clerk called the roll as follows:

Aye—Robertson, Patton, Jenkins, McGregor.

No—Cobbs.

The Chairman: Now, I suppose it will be necessary to appoint some member to notify Mr. Cocke that the resolution is passed.

Mr. McGregor: Mr. Chairman, put the motion as amended.

The Chairman: Yes, sir. All those in favor of it as amended, signify it by saying "aye."

The motion as amended was adopted by unanimous vote.

Mr. Robertson: I move that Mr. McGregor be appointed to break the news to Mr. Cocke.

Mr. Cobbs: I suggest that the Chairman have the clerk write him a letter.

Mr. McGregor: Yes, sir; I don't want to talk much to him. (Committee Report p. 32).

[Even Mr. McGregor seemed afraid of "The Cocke of the Chaparral," although Senator Bailey said he was only a "young idiot."]

COBBS QUIESCENT, YET SOLICITOUS—FOR BAILEY.

Mr. Chairman: Mr. Clerk, when you draw up that motion, submit it to some of the gentlemen of the Committee to pass on it. Submit it to Judge Robertson and Mr. Wolfe, and if they say it is correct, Mr. McGregor may deliver it.

Mr. Cobbs: Mr. Chairman, I want to say informally, so that Mr. McGregor when he delivers that letter can tender to Mr. Cocke—

Mr. McGregor: If you are going to send anything from this body, put it in writing. I don't want to say anything to him.

Mr. Cobbs: Well, he will hear of it. So far as I am concerned, any attorney that Mr. Cocke selects, I trust if I am to vote on it, *that he will be a nonpartisan*, somebody who has not been a partisan in this matter. Now, I am willing to take Mr. Cockrell; I know him, and I am willing to take him. I don't want to draw any invidious distinctions between them, but I merely make these suggestions. *I don't want them in the record*, but simply want him to know what action I will take when he goes to select him.

Mr. McGregor: Mr. President, when I consented to deliver that written communication, I did it on the theory that it would be official; that's the only purpose of it, and I will continue to do it on that theory, and that's the only communication I am authorized to take to him. If they want to talk to him by personal suggestions, it will have to be done by somebody else than me. If there is anything further than that, I will decline to have anything to do with it. (Committee Report p. 33).

AUSTIN, Texas, Jan. 21, 1907.

Hon. William A. Cocke, Austin, Texas:

DEAR SIR: This will notify you that at a meeting of the Special Committee appointed to investigate the charges preferred by you against the Hon. Joseph W. Bailey the rules of this Committee were so amended as to permit you to appear in person and by one counsel of your own selection for the purpose of interrogating such witnesses as may testify before this Committee. This amendment to the rules was made with the understanding that you should, before its next meeting, furnish to the Committee the name of the counsel so selected by you, *in order that the employment by you might be approved by the Committee*, which employment must be made without expense to the State.

Yours respectfully,

(Signed) H. A. O'NEAL,
Chairman.

The foregoing letter, having been submitted to and approved by Messrs. Robertson and Wolfe, and having been signed by the Chairman, was delivered by Mr. McGregor to Mr. Cocke. (Committee Report p. 34).

MR. COCKE REPLIES.

January 21, 1907.

Re Senatorial Investigation.

Judge H. A. O'Neal, Chairman, House Investigating Committee, Austin, Texas.

DEAR SIR: I have the honor to acknowledge your favor of even date advising me that your Committee has amended its rules as follows: "As to permit you to appear in person and by one counsel of your own selection for the purpose of interrogating such witnesses as may testify before the Committee." You qualify this by adding that the employment of counsel by me *must be approved by the Committee*. Of course, I shall be pleased to select a reputable lawyer and I trust that no differences shall arise on this account. As you say, however, that the employment must be without expense to the State, it naturally follows that I must look to such of the gentlemen from Dallas as have offered their services to the people, or any others that might chance to do so. Then, too, the gentlemen offering their services from Dallas would like to alternate with each other as the matter progresses from stage to stage so as not to work such a great hardship on any of them. For the immediate present, however, Judge J. E. Cockrell has consented to remain, but cannot do so longer than a few days. I suppose that either of the five gentlemen from Dallas who wired you yesterday will be acceptable to your Committee, as I am able to avail the people of Texas of their services.

Respectfully yours,

(Signed) WM. A. COCKE.

COCKE CREEPS CAUTIOUSLY FORWARD.

The above quoted letter occasioned another long wrangle, resulting, finally, in the Committee excluding Colonel Wm. L. Crawford, and Hon. F. M. Etheridge as being *persona non grata* to his royal highness—the *innocent and injured Senator*.

During the course of this wrangle, which was the first meeting of the committee the proponent of the charges had been permitted to attend, Mr. Cocke said:

Mr. Cocke: Mr. Chairman, will I be permitted to make any remarks?

The Chairman: Yes, sir; *I will hear you*.

Mr. Cocke: I just want to say, Gentlemen of the Committee, that I am extremely anxious to select only such gentlemen as would be agreeable to the Committee. I believe it is due the Committee and to myself that I say that the reason for submitting the list is that one of the gentlemen is sick, another one has important pending litigation, another one wants to go home, another one does not know just when he can come, but between the five they have assured me that they will be glad to have one of them present all the while. I

believe the Committee will recognize the reasonableness of the situation, and if there is any one of the gentlemen that is objectionable, it occurs to me that it is due to me for the Committee *to say so now*, in order that I may try to make other arrangements, if those arrangements are not satisfactory.

* * * If I had to call those gentlemen singly—call upon them singly, it would be embarrassing to them not to know whether they would be acceptable. If I had to call on them later, I don't know whether your Committee would be willing to have their services.

On Wednesday morning, January 23rd, the day that Bailey was declared Senator by the joint action of the House and Senate, the Committee met and resolved "that said Cocke be allowed in person and through Judge Poindexter, employed by and representing the Senate Committee, to fully examine any and all witnesses who may be called to testify." Why, then, did they afterwards refuse to require the witness Bailey to submit to an examination by either the proponent of the charges or by his counsel?

BAILEY REFUSES TO BE SEARCHED.

The Committees met on the afternoon of January 24, 1907. Inasmuch as Judge Joseph E. Cockrell was compelled to return to Dallas that night, General M. M. Crane appeared for the proponent of the charges, and after advising the Committee that neither himself nor Judge Cockrell could be present at all times during the investigation, requested that in such case the proponent of the charges be permitted to secure other counsel. To this Mr. Odell, on behalf of Bailey, strenuously objected in several vehement speeches to the Committee. In reply General Crane said, in part

Mr. Crane: * * * If he is not guilty of the things with which he is charged, why, I suppose the evidence will develop it. If he is guilty of the things with which he is charged, I suppose that even his friends would not undertake to condone it. Now, as to whether Mr. Bailey shall be subjected to this examination, that is a matter that the Committee can control at all times, but I want to say this, gentlemen, that is the first time—I will say this to you in all candor—it is the first time that I ever knew any man charged with any offense to be investigated before any court to undertake to dictate who his prosecutors shall be. I have been practicing law nearly thirty years in Texas, and I never knew a man charged with any crime to send his attorneys into court or permit them to go into court protesting against the appointment or permission by the court of a lawyer to appear in the prosecution of the case. The court has absolute control of it and can prevent any improper practices, and I hope they will not insist on that proposition, because it is so unusual. If our questions asked Mr. Bailey are improper, the Committee and Chairman can control us. We understand that we are under the jurisdiction of the Committee, just like under a judge on the bench, and the Committee can require us to respect them. Now, I do not

think these objections are at all tenable, and I do insist on the privilege that Mr. Cocke can choose his counsel, and if we want relief, get some other gentlemen. They can change as many times as they wish; we have no objection.

Mr. Cocke: I feel like saying to the Committee that I do not want any attorney to humiliate or embarrass Senator Bailey, and I have no such intention. This Committee must appreciate the delicacy of my position, asking me to go into the trial of a case and not knowing who my attorneys shall be throughout. I would be perfectly willing for General Crane and Judge Cockrell to stay here—I would be delighted if they could. (Committee Report pp. 54, 56).

BAILEY CALLED BUT FOUND WANTING.

After refusing this request the following proceedings were had:

Mr. Crane: I will state here, we have arranged the order of the presentation of our testimony and will call Senator Bailey first, and we will be very much obliged to the Committee for necessary process, if he will not come without process. We wanted to begin that way. *We have mapped out our work on that line and will first examine him, and then introduce the rest of it.*

The Chairman: That is a question for the Committee. Gentlemen, you have heard the suggestion of General Crane. What will you do about it?

Mr. Odell: I will state to the Committee, on behalf of Senator Bailey, at any time this Committee desires his presence here there is no necessity for the issuance of process. However, it may save some time. *We desire to enter protest against the calling of Senator Bailey as a witness at this time.*

Mr. Crane: Now, Mr. Chairman and Gentlemen of the Committee the charges, the campaign charges, as I understand it, are entirely out of this, the charges and counter-charges that may have been made. The only question before the Committee is the charges on file here in this paper. We have been permitted to appear here, charged with the burden of developing the facts, to see whether they sustain those charges or not, and we think, as a matter of good faith to us, as we have to discharge that burden, that this Committee ought to permit us to do it just like all the courts do—*call our witnesses in the ordinary way.* And it is unusual for opposing counsel, or even for the court, to indicate to counsel what witnesses they shall call, because that is a matter that seems to me ought to be left to the discretion of the counsel and I never heard it questioned, that I recall, before. We want to call Mr. Bailey to see what the facts are—that's all.

Mr. McGregor: I would like to suggest that our rules provide that the rules governing district courts shall obtain.

The Chairman: I understand that that is the rule.

Mr. McGregor: *That being so, I think they can offer their proof in any way they choose.*

The Chairman: Gentlemen, are you all ready for me to make the ruling on the matter? If anyone desires to be heard, I would be glad to hear from him.

Mr. Odell: It is true, Mr. Chairman, that the rules of this Committee provide that the hearing and investigation shall proceed under the rules of the district court of this State—of course, in so far as they can be applicable. It follows as a matter of course that the rules prescribed for the district courts of this State furnish no guide for the guidance of this Committee on a question of this kind. As a matter of course, counsel ordinarily have the right in any case to call the witnesses in the order in which they desire to introduce them—that is true. It is true both in a civil case, and it is true in a criminal case. However, a man, if he was charged with an assault and battery in this State, if he was charged with a disturbance of the peace, could not be called in a justice court and put upon the witness stand with no question or issue of moral turpitude affecting him, and there is no reason why an issue of this kind should not be met squarely. It cannot be said, it seems to us, that this hearing and investigation has any close relationship to a civil suit. This is not a case here of Cocke against Bailey. The man who filed these charges can have at the hands of this Committee no kind of relief. The accusations here against Senator Bailey not only involve moral turpitude, but there are many of these charges that in their nature are criminal accusations brought against him. Now, there is no necessity here for us undertaking to disguise, especially before this Committee, the real facts as they are presented here. It has been contended by many of Senator Bailey's accusers that they were ready at any reasonable time to proceed with the proof of his perfidy and moral turpitude. If they have the proof, certainly as a matter of course, they ought to be required to introduce that proof. If they have no proof of these charges, they ought to say so. Now, to bring Senator Bailey here at this time, what attitude are they in? They bring the man whom they are accusing here. They seek to interrogate him with reference to these charges, and give every witness by whom they expect, if they do expect, to be able to prove that, the notice of what Senator Bailey himself has to say about that. I repeat here, Mr. Chairman, that many of these charges, of themselves, are criminal in their nature. The burden of the proof is on these gentlemen. If they don't have the proof of the charges, the charges ought never to have been presented here. If they have the proof of the charges, it ought to be tendered here, and then Senator Bailey, in his own good time, under the rules prescribed by this Committee, be permitted to refute the charges, and that, Mr. Chairman, is all that we ask.

* * * *It would do Senator Bailey a most grievous injustice to bring him here at this time and undertake to interrogate him on these criminal and quasi-criminal accusations that they made against him. I repeat, the most trivial misdemeanor that can be charged against a man in this country, in any court of this country, that no*

such procedure as that would or could be permitted. And in these charges here, Mr. Chairman, they must amount to high crimes, to treason as well as misdemeanors, and yet these gentlemen are now, after all the preparation they have had and after months have gone by since those charges have been made, at the very inception of the investigation that the Legislature of this State has ordered, are undertaking to call the accused here, instead of fairly furnishing the accused with the testimony and the evidence that he has against him, to the end that he may meet his accusers.

Mr. Crane: Mr. Chairman and Gentlemen of the Committee, I had not believed that that question could possibly arise. This is not a criminal proceeding, but, as I understand it, it is a proceeding that was finally determined upon by the friends of Mr. Bailey in the House, as well as by those who were classified as his enemies. If I am mistaken about that—but I understand that the resolutions adopted by this Committee—under which this Committee was organized, were agreed to by his friends. If I am mistaken about that, I would that some gentleman would correct me. Now, that being true, *they sought to guard Mr. Bailey's interests by requiring specific charges to be prepared.* I am offering no criticisms now at all, but Mr. Cocke complied with that legislative regulation, and filed the specific charges, and now when we intended, as Mr. Cocke's counsel, to develop the proof of those charges, they undertake to direct us in the order we shall introduce it and what witnesses we shall call. *Now, I am paying them a higher compliment than they are paying their client. I am assuming, if Mr. Bailey is innocent, that his testimony will show it, and I want to get him now on the stand for the purpose of examining him and seeing what the facts are from his standpoint.* Then, if we have anything else that is contradictory—it may be that his testimony is satisfactory or unsatisfactory; but we have the right to know what he will have to say about it. If at any time we ask a question the answer to which might incriminate him—and that is what counsel are arguing as one of the reasons why we are not permitted to follow it—they can protect him, he can protect himself at the proper time. But certainly, that is no reason, because we might ask him some question of that character—that is no reason why we may not bring him on the witness stand and ask him what was thought perfectly legitimate. It seems to me just like any other civil case. *Bring him here and examine him,* and if at any time any question arises of this character then the question can be made. Now, if Mr. Odell's position is correct, we would have no right to call Mr. Bailey now or any other time. (Committee Report, pp. 58, 59.)

Mr. Odell: We will have Mr. Bailey at the right time.

Mr. Crane: Yes, sir; but we want him ourselves at the right time, and we don't want them to say when we shall take him. Now, I submit that when a public servant is being investigated under a legislative resolution that there ought to be the utmost frankness

and candor, and he ought to put himself at their disposal—at our disposal—because we want to know what the facts are.

Mr. Hanger: Do you want to examine or cross-examine?

Mr. Crane: Sir?

Mr. Hanger: You will have the right to cross-examine him—is that what you mean? [As a matter of fact this promise was finally broken.]

Mr. Crane: I want the right to examine him, and you can call it examination or cross-examination. *But the point is, they are hedging.* They will produce Mr. Bailey. We want, if the Committee pleases, to produce him ourselves, and we submit that for the Legislature to pass a resolution saying that the great Commonwealth of this State has the right to investigate Mr. Bailey's conduct on specific charges that are filed, and then to deny those people the right to call Mr. Bailey and ask him about that, their public servant, we undertake to say that that is a ruling that is remarkable. And I don't mean to suggest to counsel what they ought to do, but I would regard them as unfriendly to me if I were in Mr. Bailey's attitude. I would want to be brought and put on the witness stand and interrogated about all the facts, every one of them, and I think that the Committee ought to require it at our request. Now, I am assuming that, what we will do if he is innocent, as these gentlemen say he is. I have made no charges against him, but Mr. Cocke has, esteeming it his duty so to do. Let us see what are the facts as to those charges, and let us ask Mr. Bailey about them. (Committee Report p. 59).

* * * Mr. Crane: Well, now, as we have to conduct the examination, did you ever hear a court say to a counsel, except it be to get the evidence, that you have no right to call this witness at this time? When will the right time be? How will we know? We think the right time is now; and I submit to this Committee of lawyers, are we, as lawyers, permitted under the rules of the district court—and you have adopted them—are we, as lawyers, permitted to have the privileges of the district court to call our witnesses in our own time and in our own way, or will opposing counsel and the Committee dictate to us as to how we shall call them? That is the point, that is all. So far as I am concerned, I would treat Senator Bailey just as I would the lowest negro if produced here. I don't recognize any difference in high citizens. Every man is equal before the law, and a United States Senator is entitled to no more consideration than I am or you are, or anybody else. When the Legislature passes a resolution requiring us to examine into the acts of a United States Senator, and when they say that he is ready to meet his accusers face to face, and when we ask him to meet us, and we ask to inquire of him about the very matters in dispute, then, I object, we are not to be told that we cannot call him.

Mr. Crane * * * Now, then, I would like for the Committee to determine now whether or not the district court rules are to ap-

ply and whether or not we are to have the liberty that counsel usually have from the justice court on up, of calling our witnesses in our own time and in our own way.

Mr. Cobbs: I don't think it is a question of whether the district court rules apply.

Mr. Crane: I understand you had them adopted.

Mr. Cobbs: I understand. There is no question about the rules.

Mr. Cobbs * * * You and I have differences between us. We will have to let the Committee decide it.

Mr. Odell: I rise at this time for this reason, and no other, not specially that I be enlightened, that I may be enabled to enlighten the Committee in what I shall say, but these proceedings here are for the whole world, they are to be published, and while I do not say that General Crane is intentionally doing so we again have been placed here in a false position with reference to our attitude. It is suggested by him that we are in the attitude of claiming here that if they ask Senator Bailey with reference to certain charges pending against him that it would be necessary for him to rely on his constitutional rights not to incriminate himself. That is not true.

Mr. Crane: Didn't you state that? Your whole thought was in that direction. (Committee Report p. 60).

COLONEL JENKINS IS ASTONISHED AT ODELL'S PROPOSITION.

Mr. Jenkins: *I suppose I may as well be heard before the ruling as afterward.* I have listened with interest and with astonishment at the proposition advanced by Senator Odell. We have adopted the rules, as has been said, of procedure in civil cases in the district court. Now, what are those rules? It is said here that because some of these charges involve moral turpitude or crime, that, therefore, you can not call the witness. I do not believe that any lawyer could afford to stand before any district judge upon the trial of any civil case and say that the plaintiff could not call the defendant because the suit involved moral turpitude and crime. If you are suing a man for damages for murdering the husband of a woman, it would be no objection to calling him as a witness for the plaintiff because he was charged with murder. If he had not been tried he might object to answering any question which would tend to inculcate him. If he had been tried and acquitted, as was the case in a case that I had for trial, and his testimony was deemed beneficial in part to the plaintiff, the plaintiff could call him and put him on the stand and prove his case, and I undertake to say that there is no rule in this State that prevents the calling of the defendant by the plaintiff and putting him under oath as a witness. * * * The well-known parliamentary rule is that in matters of inquiry you should be more liberal, both as to pleadings and evidence, than in matters of impeachment or matters involving criminal consequences. These gentlemen are not asking anything more liberal than they

would have in the district court—that is, to make out their case if they can, or to prove any isolated fact, if they can, by the defendant in the case. *It is astonishing to me that it would be objected to.*
 * * * We will get to an issue if Senator Bailey is put on the stand. If he admits certain things, that is an end of it. We do not need any witnesses. If he denies it, let them prove it, if they can, let them fail if they cannot.

Judge Poindexter: Mr. Chairman and gentlemen of the Committees, I have been somewhat embarrassed in ascertaining for myself the lines of duty that I am to pursue, and I have taken the responsibility of deciding it for myself. Employed by the Senate Committee and recognized by the House Committee, I have decided and concluded that my purpose here was to assist in developing the truth as it might exist with reference to these charges.
 * * * This is an inquest here. It is a body sitting here, created by the two departments of the Legislature, to ascertain the truth with reference to certain charges that have been made in print, and subsequently here reduced to writing, against a public official, and I have not reached the conclusion that this is a criminal investigation. There may be in some of these additional charges—I have not read them—there may be something there that might, if established, result in a criminal prosecution. I do not know. I have not examined them. But that question would arise when the question was propounded to the witness on the stand, and then the Committee, without the witness himself, or his counsel objecting, might interpose an objection to the question being asked. But we are here seeking for the truth, and it has occurred to me, and I had agreed on this proposition suggested, that time would perhaps be saved by calling Senator Bailey and propounding such questions as counsel might see proper to propound to him, and such as the Committee might think proper questions, that that might save time. There might be many things that he would not deny, but simply explain. As has been suggested here, that would avoid a vast field of investigation and save a great deal of time, and at the same time violate no principle that ought to control and actuate the Committees in the development of the evidence and the facts in this matter. I can see nothing that should authorize or empower the Committee, or any member of it, to dictate to counsel the course they should take in procuring their evidence. This is certainly not a criminal prosecution. If it is, we have no right to put him on the stand. We have absolutely no right to put him on the stand at any time. If it is not, we have a right to put him on at any time. (Committee Report p. 62).

MR. WOLFE'S ANXIETY INCREASES.

Mr. Wolfe: * * * *Now, the question that comes to my mind is, ought we to compel Senator Bailey to go first upon the witness stand and testify, subject himself to cross-examination, while the*

witnesses are on the outside—the evidence to be published and everything to be seen, and then to come here and contradict him on the witness stand? That is not usual in such a class of cases of this, and, it being more in the nature of a criminal charge than in the nature of a civil suit, I think counsel for Senator Bailey have a perfect right here, at this time, to interpose the objection that the complainant should proceed with his evidence in whatever order he desires to make out his charges, and after he has produced evidence on any one of these charges, then it will be incumbent upon Senator Bailey to come in here and disprove it if he is able to do so. Now, I will state that this is not a court wherein Senator Bailey is bound to come and prove himself innocent, but the House has required that some man make charges, specific charges. Now, that carries with it the idea that the man who makes the charges is supposed to introduce proof to sustain those charges, and that Senator Bailey in the minds of this Committee shall remain innocent until after evidence is introduced here to a certain degree tending to establish his guilt. I do not think that we ought to start in here with the assumption that Senator Bailey is guilty, or that it is incumbent upon Senator Bailey to prove himself innocent, but that those who have filed the charges and are prosecuting the charges have the burden of establishing his guilt, and not by bringing Senator Bailey here and putting him on the witness stand and expecting to get his confession. For that reason I certainly feel that in the commonest justice Senator Bailey is entitled to hear the witnesses that the complainant has to sustain these charges before he is required to open his mouth here at all.

Mr. Crane: There is one thing that, Gentlemen of the Committee, opposing our offer of the testimony of Senator Bailey seem to me to utterly forget, and that is that Senator Bailey insists that a great many of his acts which we can prove by him are not improper for a man in his position. Now, with that view of it I fail to understand why any friend of Mr. Bailey should object to our putting him on the stand and proving those, and, of course, incidentally, other things that he does know. Now, for instance, Mr. Bailey has asserted the right, as I understand him, and I am assuming that I correctly understood him, that he has a right to accept employment, all of the employment that he has accepted. Now, we don't want to put campaign speeches in evidence before this Committee, but we want to get Mr. Bailey here and ask him just such questions as would develop the particular points that I understand he has stated in his campaign. It will be a whole lot easier than it will be to examine forty witnesses who heard him make a speech. Now, gentlemen know—all of you gentlemen know—how difficult it is. He made a speech down here yesterday, I understand, and if I were a gambler I would bet a hundred dollars right now that I could take twenty men out of the House and there would not be any five of them who would agree on the same statement. Now, I think it is absurd to require us to prove his statements that way, with all due respect to

these gentlemen, when we ask to bring him here and make inquiries of him about matters that he will not dispute, as we understand it. Then that will shorten the procedure. And why can't we?

* * * This is the inquiry of an investigating committee to see what the facts are and then see whether there will be any future proceedings of any kind. Now, I regret these delays. We wanted to bring Mr. Bailey here and examine him about statements he has made heretofore in public and get what the facts are about them, and not by the necessity of going out and getting men who heard him make speeches, as suggested by Mr. Wolfe, and then putting in contradictory statements. It is a civil proceedings, entirely so, and ought to be so held. Now, if you gentlemen are going to determine it is a criminal procedure, it means that we can not call him at all. Now, it is one or the other. It is either a civil or criminal procedure. If it is a criminal proceeding, tell us so now, and then we will know that so far as we are concerned it will be left to his course and the course of his counsel as to whether he goes on the witness stand or not, because the Committee can not compel him to, and ought not. If you tell us it is a criminal proceeding, while I shall disagree from you, on the other hand I will say that if you decide it is a criminal proceeding, then you ought not to allow us to put him on the stand, either now or at any other time. But let me ask you, as a matter of fairness, if it is a civil proceeding, why not accord to us the common privilege that is never denied a reputable lawyer to offer his testimony in his own way, in his own order, so long as he pledges his professional word that he is going to make a connection between any testimony he is offering and the other that he proposes to offer. Now, that's the way it looks to me, and I am trying to look at it as calmly as possible. We want to examine Mr. Bailey about many things that I am sure he will not dispute, unless we have misunderstood him and have misread what he has uttered. And then we may examine him about other things he has not discussed at all, but that is a question that will arise when the time comes.

COBBS SHIELDS THE ACCUSED.

Mr. Cobbs: Mr. Chairman, I want to make a few remarks. I am not like my friend, Mr. Jenkins, surprised, as he stated he was, at Mr. Odell. * * * I never heard of anybody calling the defendant on the witness stand to make out the plaintiff's case. That is an unusual procedure. It may be done. You may institute suit against a party and put him on the witness stand and make out a case, but I say it is not hardly the practice I have been accustomed to.

Mr. Crane: Wouldn't we have the right to do that if we wanted to?

Mr. Cobbs: You ought not to have brought your suit, then. * * * Now, the party charged here is Mr. Bailey. Now, you propose to make the party charged your witness. There is not a scintilla of evidence tending to show it is a civil cause of action

which there is any specific relief sought. None could be sought. But you have charged him here with all character of crime in his position as United States Senator that would be so disgusting to the sense of propriety as to demand of the House of Representatives that his credentials should be taken from him. * * * Now, then, you bring your civil action, and set up a state of facts like that, which would set aside the judgment. You can examine the opposite party, if you wanted to do that, but I say this is nothing like a civil proceedings. In my mind it is not a quasi-criminal proceeding. It is an investigation that goes to a man's honor and his integrity. It goes to his purity, and it goes to no other fact. [If Bailey was "pure" and "innocent" why all this refusal to make him testify?] (Committee Report p. 65).

Mr. Crane: We are simply investigating his conduct as a Senator.

Mr. Cobbs: You are investigating his conduct as a Senator. Now, what interest has any individual got in that? It is the interest that the State has; it is the House of Representatives investigating this transaction, not Mr. Cocke, not you gentlemen.

Mr. Crane: But you required Mr. Cocke—that is, required some individual—

Mr. Cobbs: Nobody required Mr. Cocke—

Mr. Crane: But don't the rules require some individual to file those charges?

Mr. Cobbs: No, sir; they do not require them filed.

Mr. Crane: But does not the Investigating Committee make it a prerequisite to any investigation that charges be filed?

Mr. Cobbs: Yes.

Mr. Crane: Then, don't you think that individual, if he files his charges, ought to be permitted to prove them by any legal testimony?

Mr. Cobbs: I should say the privilege is conferred upon any individual to make charges against Senator Bailey who desired to do so, under this resolution.

Mr. Crane: Now, we want the privilege of making the proof.

Mr. Cobbs: Yes; but you want a good deal more. You want a good deal more than a mere investigation.

Mr. Jenkins: If you should sue a man for damages for murder, couldn't you put him on the stand?

Mr. Cobbs: That would still be a civil transaction in which individuals are interested, and I have tried to make that clear, that in a matter in which there is a civil contract, in which you have a right of action against a party, a right of damages, is wholly unlike an investigation set about under a serious resolution of the House of Representatives.

Mr. Cockrell: You do not doubt the authority of this Committee at some session.

Mr. Cobbs: I do not doubt the authority of this Committee at all, *but I doubt the propriety of the Committee putting any man in the position that you want to put Mr. Bailey in.*

Mr. Cockrell: You do not mean to say that this Committee would go back and make a report without having called Senator Bailey, do you, if no other witness was offered here?

Mr. Cobbs: I say we would call him if no charges were made here.

Mr. Cockrell: That you would call Senator Bailey?

Mr. Cobbs: I say we would call him if no charges were made here.

Mr. Cockrell: That you would call Senator Bailey?

Mr. Cobbs: Certainly.

Mr. Cockrell: I say, suppose there were no charges made, and no man appeared here to prosecute them, do you think there is a man on the Committee that would go back and make a report without first having called Senator Bailey and investigating the truth?

Mr. Cobbs: I do not believe there is a man on this Committee that would go and report without first calling him.

Mr. Cockrell: Now, that brings it down to simply a question of the selection of counsel.

Mr. Cobbs: Of letting you undertake it.

Mr. Cockrell: Wouldn't the Committee interrogate him if you put him on?

Mr. Cobbs: *Yes, sir; but we would do it in a very different way from you.*

Mr. Cockrell: How do you know they would?

Mr. Cobbs: Because we have been charged here with the duty of doing this thing *independently*.

Mr. Cockrell: But I do not like your assumption that you would do it differently from us. How do you know that?

Mr. Cobbs: I judge you by your acts. You are asking here now to bring Senator Bailey here and interrogate him first. If there were no charges filed this Committee, so far as I am concerned, would bring him here, or with any charges that anybody was to make, and then we would interrogate him with reference to it. That would be my idea about it; but my idea would be to exhaust all other sources before we would ever call upon him here *to convict himself*. That certainly would not be giving to him the presumption of innocence.

Mr. Cocke: *Are you assuming that he is guilty?*

Mr. Cobbs: No, sir; on the contrary, my assumption is that he is free from guilt. Any other assumption would be unworthy of the Committee, as the question is unworthy of you to ask me what our assumption would be in reference to that.

Mr. Crane: If your Committee have the right to call Mr. Bailey without the introduction of any previous testimony on the part of anybody else, why are we not accorded the privilege of calling Mr. Bailey in advance of any other testimony, when we intend to follow it up with other testimony? If your Committee have the privilege, and would exercise it, why may we not do so?

Mr. Cobbs: For the simple reason that you have preferred charges against him here, preferred serious charges against him. You are in the relation of prosecuting those charges yourself, and force upon us the position of judges. We would be that, anyhow; but you take the burden yourself of prosecuting him.

Mr. Crane: Suppose none of us appeared here?

Mr. Cobbs: I am supposing a fact. Don't let us take a case that does not exist.

Mr. Crane: But I am taking a supposition you made yourself. Suppose that we were not here?

Mr. Cobbs: Then the investigation would proceed anyway.

Mr. Crane: You would take the burden of asking questions?

Mr. Cobbs: Certainly. I would face the difficulty whenever the difficulty arises; but that is not the case. You are prosecuting here. You have preferred charges against him. You represent them, and you, as his attorneys here, ought to stand up and investigate those charges. Now, you come and ask that Senator Bailey be put up there first. (Committee Report p. 66).

Mr. Odell: * * * Now, we have many serious objections, *some of them that it is not necessary to state*, to Senator Bailey's appearing at this time. We want these men who charge him with all of these nefarious and criminal practices to come here and testify. If Senator Bailey is put on first, these men who have been libeling and slandering him may never make their appearance in this Capitol. That is one of the reasons.

Mr. Cocke: Mr. Chairman, if no member of the Committee desires to say anything I would like to say a few words.

Mr. Chairman: Very well.

Mr. Cocke: I shall endeavor to suppress any sentiment of animus which might naturally be expected to be instilled into my feelings by the strong remarks of counsel. I have said before and I repeat it now, that I am striving to perform what I conceive to be a citizen's duty and the duty of a legislator under the circumstances, and I think it is due me, Mr. Chairman, that this Committee know in advance that not one word in these charges was written by me except I had good reason or reason sufficient to my mind to justify them, and shall insist as this proceeding advances—at least, I shall earnestly request—that I be permitted to either offer proof in an orderly, lawyer-like way as applicable to such an inquiry as this, or else be permitted to offer this Committee from time to time the reasons that animated me in the presentation of these charges. *I have not at this moment the slightest malice in my heart towards the distinguished gentleman. I have nothing in my heart except a desire to perform a duty, and I ask in making these charges that I be extended the privilege of interrogating the public servant who himself claims to be innocent.* I am willing to admit for the time being he is innocent, yet I assume that I would have the right to interrogate that man, as we would have the right to interrogate the defen-

dant in civil proceedings as to the truth or falsity of the allegations, and if perchance any part of the allegations could be supported by his own testimony, that I should have the privilege of such examination. Throughout the legislative proceedings leading up to this investigation, gentlemen, I think we are entitled to assume that Mr. Bailey and Mr. Bailey's friends were sincere and honest in their protestations of his willingness to submit to a thorough and searching investigation upon there being propounded specific and written charges. I assume, gentlemen, that other members of the House of Representatives will offer a more generous attitude towards the distinguished man than has been forced upon me in the propounding of these charges, for we assumed in good faith, that we should not charge a man in his high station with these specific acts and publish to the world even the suspicion of their existence in any more emphatic form than was absolutely essential for the protection and honor of the State. *It was Mr. Bailey and Mr. Bailey's friends who stated that we must have specific written charges, and it was he who, in the House of Representatives, said, "I am willing and ready to face any man who will make them."* I desire not to continue this argument, gentlemen, or to express any unbecoming sentiment or animus that should not characterize one in a judicial proceedings, but it seems to me unfair to the member of the Legislature who has faithfully sought to comply with an invitation that he should not be permitted to question a high public servant of their truth or falsity—if the charges be false.

Mr. Cockrell: Mr. Chairman, just a word, not with the thought of adding anything to what has been said. It is disagreeable to us—I don't know whether the counsel on the other side intend to make it so—to have it repeatedly thrown up every time they get up to address the Committee on any question, that it is the personal enemies of Senator Bailey who are hounding him here. *I believe there are higher motives that sometimes actuate citizens of this State than matters of personal enmity.* Senator Bailey never did me even a discourteous act in his life. Even after some little political differences, which had never rankled in my heart for a moment, I have had occasion to defend him, and to do it lately—that is, this summer—against aspersions of those who, I thought, were actuated by improper motives, and I defended him in private conversation. I never had occasion to become his spokesman in public against an imputation of his honesty, on the ground that he occupied a position before the people of Texas so exalted, from my standpoint, that he could not be, through any consideration of money, disloyal to the interests of the people of Texas. Now, conceding, however, that we are actuated by the meanest of motives, which, of course, I disclaim, will a more thorough examination and a more thorough investigation be reached by those of us who are animated—who are prompted by such motives than an investigation conducted by the partisan friends of the gentleman? I understand

that they came before this Committee a few days ago, and asked the privilege or tendered their services as we had to investigate the charges. Would an investigation under the direction of these gentlemen have been as fair or more fair to the people of Texas than an investigation in which we participate? Now, coming down to the point immediately in question. Admit that we had no counsel here; admit that Mr. Cocke had not been permitted to ask questions in support of these charges, at some stage of the proceedings it would have been the duty of the Committee to call Mr. Bailey and examine him, and examine him thoroughly, with reference to these charges. That being true, you waive the question of its being a criminal prosecution, because the Committee would no more have a right to examine him, if the charge is a criminal one, than would counsel, who now seek the opportunity of examining him. Of course, we are not going to take the position that he has not the right to decline to answer any question, should he choose, that would tend to criminate himself. Now, it is only upon that position that he has a right to decline. There is no difference between us upon that proposition. Now, it resolves itself into a question of discretion upon the part of counsel, it seems to me, as to the order in which they will proceed. The Committee are in thorough agreement with us that at some stage of this proceeding this Committee will examine Mr. Bailey unless somebody else examines him. You don't mean to say, if that be true, that you would close the proceedings, so far as the prosecution of the charges is concerned, and leave it to the gentlemen on the other side to say whether they would reopen it and ask to put him on the stand when nothing had been urged against him? The position of even the committeemen who oppose our putting him on is that it would be the duty of the Committee before closing the investigation to put him on the stand. Now, Mr. Cocke has counsel here, who are undertaking to assist him. You have accorded him a *courtesy* in allowing him counsel, which I think was according him an *absolute right*, when it was accorded as a *courtesy*. Now, that being true, why ought we not be allowed to proceed in the manner which we think will most expedite the trial and which we think will most fairly develop the facts? We shall not urge and I don't think Senator Bailey will for one moment at any stage of the proceeding, and I don't understand, gentlemen, to take the position, that he will ever refuse to answer upon the constitutional ground, and yet that is the only ground.

Mr. Odell: Excuse me. That was brought in by your counsel.

Mr. Cockrell: On the ground that they would criminate him?

Mr. Crane: * * * Now, there are many things that we will expect to prove by Mr. Bailey, very many of them, and I don't know whether Mr. Cocke will have other evidence on that or not. I did not have the status of counsel until yesterday, and did not undertake to go into the question of evidence. That was not my

province at that time. I have since gone over with Mr. Cocke some of the proof he expects to offer here. We can expedite matters very much. You admit you have to examine him at some time, and it is just a question of procedure as to when you will put him on. * * * I believe that fairness and justice require that we be permitted to put Senator Bailey on and question him with reference to every matter that we desire to question him on, every proper matter, in a proper way, and that we be permitted to do so at our own time and in such a way as counsel think is most proper and most beneficial to the investigation, and I don't see any use indulging in any question as to whether it is a civil or criminal case. *All we want is the truth.* (Committee Report p. 70).

BAILEY ESCAPES EXAMINATION.

Mr. Cocke: Mr. Chairman, pardon me for a minute.

The Chairman: * * * I will state furthermore that I don't think it is proper for Mr. Cocke, with counsel present, *to be heard at all.* * * * *I will hold at this time the gentlemen representing the complainant do not have the right to introduce Senator Bailey.*

Mr. Crane: We desire to take the vote of the Committee on the proposition.

The Chairman: The Clerk will call the roll, and those favoring the ruling of the Chair will vote "Aye" and those against the ruling of the Chair will vote "No," as the roll is called. The Clerk will call the roll.

The Clerk called the roll, and those voting "Aye" were: Patton, Cobbs and Wolfe—3. Those voting "No" were: Robertson, McGregor, and Jenkins—3.

Mr. Cobbs: *That refuses to overrule your ruling.*

The Chairman: Yes, sir; I take it so. (Committee Report p. 72).

GENERAL CRANE VAINLY PROTESTS.

Mr. Crane: Counsel for Mr. Cocke object to the ruling of the majority of the committee, for the reason—no, in denying them the privilege of introducing Senator Bailey now, for the reason that it denies them the right of conducting their case in their own way with a view of supporting the charges made by Mr. Cocke. Second, because it requires us in advance to produce witnesses from various parts of the State to prove facts which will be readily admitted by Mr. Bailey on the witness stand, he only denying the inferences which are drawn therefrom. Third, or whatever it is, that in a matter of this sort, and as counsel for the Senator insist, that involves his honor, the rules of evidence ought to be liberalized rather than contracted with a view of giving to the Legislature and through the Legislature the people of the State, whose servant the Senator is, all of the facts, whether deduced from the Senator or from other wit-

nesses, to the end that if he is innocent of the facts, may show same, and if he is not innocent they have a right to know it. For these reasons we protest against the ruling of the Committee, in a legislative investigation into the conduct of a public officer and for which ruling it is believed that no precedent can be found. We also protest against the refusal to permit Mr. Cocke to make any suggestions to the Committee, for the reason that he may have some lawyers present, he himself being a lawyer, and filing the charges upon which he seeks to produce proof and upon which he desires the Committee to understand not only what he is doing but his motives for so doing.

Mr. Wolfe: I want to say Mr. Chairman, that this Committee has not refused—

Mr. Crane: I beg your pardon. The Chairman cut him off and would not let him speak.

Mr. Wolfe: Well, it was not the Committee that did it.

Mr. Crane: Well, make it the Chairman. I am glad you made that suggestion. I believe the Committee did not rule on that.

Mr. Wolfe: You didn't ask the Committee to rule on that.

Mr. Crane: Well, we will do it yet, because we think he has a right to do it.

Mr. Crane: Now, as to further proceedings, I believe we would not want to take them up in the absence of the Chairman, but when he comes in, I ask respectfully of the Committee again to see that Mr. Cocke's right may be fixed, and then we will have some other suggestions to make. We want some time for consultation as to our procedure, because we have mapped out our procedure on that line.

The Chairman: Are you gentlemen ready to proceed with the witnesses?

Mr. Crane: We would like to have the ruling defined a little further before we decide on our procedure, and that can not be done in the absence of the Chairman. He seems to concede the right, if I understand the ruling, for us at some time or other, to examine Senator Bailey. Now, if we can be controlled in a right of this kind in one particular, why a majority of the Committee could control us in every step we undertook to take, and I am not sure just what service we might be to the Committee unless we were allowed to map our own plans of procedure for examination and carry them out, and I do not know to just what extent the ruling of the Chairman goes. If he says after we introduce a witness, we may put Senator Bailey on the stand, or after we introduce a document of some kind or other we may put him on, and that is liable at a time when we think—

I asked if it was the desire of the Committee to await the return of the Chair, to ascertain Mr. Cocke's attitude before the Committee—well, we will consult in the meantime and save all the time possible.

COMMITTEE AGAIN EVADES MAKING BAILEY TESTIFY.

Mr. Crane: I would like for the Committee to indicate to us—they concede at some time we will have the right to examine Mr. Bailey—we would like to know about when. Now, for instance, we can offer these documents as soon as we can get them from the Attorney General's office, that have been the subject of so much discussion—we can offer some little evidence in reference to them—then we can shorten the proceedings by—

The Chairman: Do you desire a subpoena for Senator Bailey?

Mr. Crane: Yes, sir; we do.

Mr. Cockrell: We don't want it if counsel says he will come.

Mr. Odell: You need not subpoena him.

Mr. Crane: That is very good, but the point I want to know is, when can we use him?

Mr. Cobbs: *My understanding is when the prosecution has made out its charges.*

Mr. Crane: Mr. Cobbs, I want to suggest to you, if it does not occur to you, *it is the most unreasonable rule ever promulgated among English-speaking people that in an investigation of this kind we cannot introduce Senator Bailey.*

The Chairman: There is nothing before the Committee. (Committee Report p. 77).

COMMITTEE HEDGES AGAINST NEW TESTIMONY.

On January 26th, Wolfe, as a member of the Investigation Committee, *which by this time had developed into a careful suppression rather than an investigation*, so far as the majority of the Committee was concerned, in order to hamper the proponent of the charges, moved the adoption of the following resolution:

"Therefore, be it resolved, That hereafter no subpoena shall issue for any witness *until after the party applying therefor shall state in writing and under oath the point of the charge upon which said witness is expected to testify, and that he has good reason to believe and does believe that the witness will testify to facts either tending to sustain or disprove such charge.*" (Committee Report p. 148).

The purpose of this resolution was to deny the proponent of the charges an opportunity to get new testimony or the testimony of distant witnesses, *with whom he had no opportunity to converse, consequently was unable to make oath as what the witnesses in turn would swear to.*

TESTIMONY, BY DEPOSITION, EXCLUDED AT BAILEY'S DICTATION.

Although the Investigation Resolution provided for the taking of depositions, when the proponent of the charges undertook to secure evidence in that way Bailey and his lawyers blocked the road, as is conclusively shown by the following proceedings of the Committee. (Committee Report, p. 170).

Mr. Cockrell: The resolution provides for the taking of depositions, and we have in mind to take some depositions, and we would like for the committee to formulate the regulations under which they are to be taken.

The Chairman: It is not necessary to formulate a plan. If we have got a right to take depositions, we will take them under the rules of the district court.

Mr. Hanger: If any testimony is to be taken away from here, *we shall insist on it not being taken by deposition*, but in the presence of this committee as provided by this resolution.

The Chairman: I will state to Judge Cockrell if you have got any witnesses whose testimony you believe to be material, we will send two members of this committee at any time, send them on any day you say you are ready to take their testimony.

Senator Bailey: I hope you won't start them on any day. I want to be present whenever any man swears touching my character.

The Chairman: We will have to suspend this investigation while that is being done.

Senator Bailey: Well, I am entitled to be present whenever any man is swearing against my character or reputation, and I will go to any part of the United States in order to be present when that is done.

Mr. Odell: I make this suggestion: That the prosecution in this case might give us a list of the witnesses beyond the borders of the State that they expect to use, and the substance of what they expect to prove by them. If they will furnish that to us we will do anything within our power to facilitate and hasten the securing of that testimony in a proper way.

On a previous occasion the Chairman of the Committee asked the proponent of the charges to prepare certain interrogatories to be propounded to distant and unavailable witnesses, but refused to allow him stenographic assistance to prepare such interrogatories. Later the above quoted proceedings finally disposed of this question. It will be noted that Senator Bailey said above: "I will go to any part of the United States in order to be present when that is done," that is when a sub-committee should be sent to procure testimony, but later on in the proceedings, when it was proposed to send a sub-committee North, Bailey and his lawyers objected. *Of course, their objection was sustained.*

LOONEY OBJECTS TO INTRODUCTION OF VOUCHERS AND DOCUMENTS.

Senator Looney: In the first place, I doubt whether these vouchers have ever been offered in evidence.

Mr. Crane: That is what I am doing now.

Senator Looney: I presume we are conducting this case along the lines of procedure in district courts. I wish to raise the objection that there is nothing in that batch of evidence that is admissible here except the letter Senator Bailey wrote requesting a remittance of

\$1,750, and the note for \$8,000, which bears his signature. Everything else is purely hearsay, and so far as he is concerned I do not think a letter of that kind ought to get into this record.

Mr. Cobbs: I want to make the specific objection to the introduction of these papers in evidence at this time, and I do it, it seems to me, from a sense of propriety and proper conception of the effect that testimony might have in the future in the absence of any testimony which would connect Senator Bailey with these vouchers at all.

Mr. Chairman: I will admit the testimony now.

Mr. Cobbs: I want to file a protest.

The Chairman: I want to call attention to a letter that I have received from Mr. Cocke:

COCKE WRITES COMMITTEE.

"January 30, 1907.

"Investigating Committee, House of Representatives, Austin, Tex.

"GENTLEMEN: I have been informed by trustworthy citizens living in Western and Northwestern Texas, of the names of certain reliable gentlemen who heard Cal Suggs speak during his lifetime of his relations with Mr. Bailey, which would throw much light upon several of the supplemental charges, and I desire to know whether or not your Committee will admit their testimony in the event it is offered. The purpose of this inquiry is not to summon these witnesses unless the statements of Mr. Suggs to them are to be admitted." (Committee Report p. 315).

There are a number of very reputable citizens of San Angelo who would have testified as to a number of conversations with Cal Suggs, wherein he spoke freely of having employed Bailey on a number of occasions to represent the firm of Suggs Brothers, of which he was managing head, before U. S. governmental departments, in consideration of "loans," and that the notes given by Bailey to them were mere subterfuges and were never paid or intended to be paid.

The Committee excluded this proffered secondary evidence on the ground of it being hearsay, notwithstanding which another Bailey witness, A. T. Cole, (Committee Report p. 600) was afterwards permitted to testify as to what Bailey had told him about something that Hon. D. A. McFall had said during his lifetime.

BAILEY WITNESSES GIVE HEARSAY TESTIMONY.

When John D. Johnson, attorney for the Waters-Pierce Oil Company, was on the stand he was permitted to testify freely concerning what Pierce had told him of his dealings with and relations to Bailey, but when Gruet was on the stand strenuous objections were made, and sustained, to his testifying concerning the conversations that he had had with Pierce on the same matters. For instance, Gruet would have testified that Pierce had told him of having introduced Bailey

at 26 Broadway in the fall of 1899 or the winter of 1900, and of the agreement then entered into whereby Bailey was to look out for the interests of Standard Oil in Texas. Of course, this was hearsay *and being against Bailey*, was inadmissible.

In this connection Mr. John H. Kirby was a privileged hearsay witness, as is disclosed by the following language:

Mr. Robertson: Do I understand you, after the foreclosure and after he had acquired the properties of the Southwestern Oil Company under that proceeding here some months ago, the debt was paid and he returned the assets of the company to the person who paid it?

A. Yes, sir; he turned over the whole thing to John F. Shepley. Shepley is a member of the Protective Committee of the Houston Oil Company stockholders.

Mr. Robertson: Then it went back into the assets of the Houston Oil Company?

A. No, Mr. Shepley told me—*this is the place where hearsay goes, don't it?*

The Chairman: *That's all right.* (Committee Report p. 432).

SENATOR LOONEY GROWS IMPATIENT.

The Committee had been in session only about a week, when the following incident occurred. (Committee Report p. 447):

Senator Looney: Can't we have a general talk *about when we are going to get through with this thing?* How many more witnesses are to be examined here.

The Chairman: You will have to ask Mr. Cocke about that.

BAILEY REFUSES TO BE PHOTOGRAPHED.

If Mr. Bailey ever refused to pose on any and all occasions, save and except one time, the author finds no record of it. The exception referred to is thus disclosed. (Committee Report p. 680):

The Chairman: There is a photographer here who requests that he be permitted to take a photograph of the committee while Governor Francis is on the stand.

Senator Bailey: *Well, I object to preserving myself in any such proceedings as this.*

The Chairman: Very well, if there is any objection.

A MATTER OF PERSONAL PRIVILEGE.

AUSTIN, Texas, February 13, 1907.

The Committee was called together at 10:30 a. m., all members present except Mr. McGregor.

Mr. Cocke: Will you pardon me—I won't take long of the Committee—I rise to a point of personal privilege, as a member of the Legislature, appearing before a legislative committee. From the newspapers this morning I see that they report that Mr. Bailey—I am sorry that he is not here—called me a liar on yesterday. I did not so understand it at that time.

Mr. Wolfe: What paper is that?

Mr. Cocke: I saw it in the Chronicle and in the Express and in the Gazette. I want to say that I was telling the Committee, at the invitation of Colonel Cobbs, what I expected to prove by J. D. Suggs, and Mr. Bailey denounced the alleged fact expected to be proven as a lie, and the man who said it *as a fact* "a liar." I did not take it that that applied to me personally. If it did and if it does—

Mr. Hanger: You are right about that.

Mr. Cocke: Well, Senator Hanger, I want to finish my statement. I want to say that if I am mistaken, and Mr. Bailey intended to call me a liar, I would simply consider the source, under these circumstances, and say further, that I have always felt that only cats and dogs fight, not gentlemen, and further, that only bullies brawl and try to browbeat. * * * Well, however it is, I want to say that I did not so construe it at the time, and if it is to be properly construed, what I have said with reference to gentlemen not indulging in such things is simply intended to put the record—

Mr. Jenkins: I did not understand Senator Bailey to make his remarks to Mr. Cocke at all. I did not understand that Mr. Cocke was asserting that these things were true. He did not pretend to know anything about it. He simply stated he was informed that certain witnesses would testify to certain things, and Senator Bailey said in fact that if they did they would testify to a lie.

ODELL DRUNK AND INSULTING.

While the Waters-Pierce Oil Company's witness, Auditor Hutchinson, was on cross-examination (Committee Report p. 723) the following proceedings were had:

By Mr. Cocke:

Q. Are the vouchers supposedly on file in St. Louis now?

A. To the best of my knowledge they ought to be on file in St. Louis.

Q. Then if the committee could find the vouchers that would explain those items?

Mr. Odell: That is an opinion and conclusion, and known to be false that the committee could find fifty-four items there.

Mr. Cocke: I do not see why the word "false" is used.

Mr. Odell: I used it because I meant it. I have sat here and heard you undertake to browbeat and intimidate witnesses as long as I am going to without slapping your jaws.

Mr. Cocke: Well, I declare.

The Chairman: There is no use talking that way. We will proceed here orderly, and let us get through with this trial. *This is a committee acting under the rules of the district court.* I think the question is perfectly proper, and I think you are entitled to answer it. * * *

Mr. Odell: *Gentlemen are expecting me to protect their records.* [The Oil Co. "gentlemen."]

The Chairman: If you will make an objection I will protect

the record, and do not let us have any unseemly evidence of temper. You have got plenty of time to be patient about it, and I will protect you.

Mr. Wolfe: Now, what was the ruling of the Chairman?

The Chairman: I ruled that the question as I understood it was proper, if the vouchers would not disclose what the expenditures were made. Now, if they seek to follow up that inquiry by going into the details of the vouchers, the way to do is to make an objection and to get a ruling on it.

Mr. Cocke: Now, Mr. Hutchinson, will the vouchers supposedly on file with the company in St. Louis give this committee the fullest information obtainable as to those fifty-four expenditures during the first six months of 1900 with reference to the company's legal business in Texas?

A. I do not know.

Q. Why don't you know?

A. *Because I have not got the records before me.*

ODELL UP FOR CONTEMPT.

On the following day, February 16, 1907 (Committee Report p. 776), Mr. Odell was held in contempt of the Committee in the following language by the Chairman:

The Chairman: Now, gentlemen, there is an incident occurred last night that in the judgment of the Committee, and acted upon by the Committee, it is the sense of the Committee that the conduct and expressions used by Senator Odell were in contempt of this Committee, and it is their judgment that Senator Odell should purge himself of that contempt in this Committee this morning. And it is also the purpose of this Committee that we are not here by virtue of our own volition but are sent here for a commission, and it is the purpose of the Committee that no other unseemly conduct shall characterize its proceedings, and I hope that it won't be necessary for me to put this purpose of the Committee into execution, but I shall do so if occasion arises again.

Thereupon Mr. Odell, who had gotten somewhat over his drunk of the night before and which condition was perfectly apparent at the time to every one present, got up and apologized to the Committee and thus purged himself of the contempt. *It may be remarked in passing that if the Committee had held Bailey in contempt a few times when he grew boisterous, dictatorial and domineering, it would have been in the interest of a fair investigation.*

COBBS, ODELL AND ATTORNEY PENN WOULD SHUT OFF THE LIGHT.

While the books of the Waters-Pierce Oil Company were before the Committee, Attorney R. L. Penn, of the law firm of Cockran & Penn, attorneys for the Waters-Pierce Oil Company at Austin, *was constantly present to watch the proceedings and see that the books were not used too freely.* In this connection the following proceedings were of interest (Committee Report pp. 783-785):

Q. Mr. Hutchinson, kindly refer to the books here and see what was charged off to legal expense and then to profit and loss at the close of 1900, you having testified that the expenditures and disbursements for the same purpose at the close of June, 1900, was \$11,590—now, see what it was in December 31, 1900?

A. December 31, 1900, was \$11,888.68.

Q. And look at the journal, on that item and analyze it for us, please.

A. Do you want me to give an analysis of it as it appears here?

Mr. Cobbs: Does that refer to these items that you have been speaking of, these vouchers, any of them?

Mr. Robertson takes the chair.

Mr. Odell: *Well, we object, Mr. Chairman, to what the books of this company would show in December, 1900, on December 31, 1900, for the reason that it is a matter not inquired by us in the first place; in the second place, it is a private transaction recorded in the books of this company that ought not to be made public.*

The Chairman: I will say this, you can inquire into any matter that is connected with this anti-trust suit at Waco and these entries you have been inquiring about.

Q. Then looking at this footing, for that purpose, can you testify as to what items, how many and what amounts, enter into that \$11,800 affecting the readmission of the Waters-Pierce Oil Company into Texas or the litigation then pending in the courts at Waco against the company or against Mr. Pierce?

Mr. Cobbs: *Mr. Chairman, I am going to make an objection here as to the scope of these questions.* Now, we cannot anticipate what expenses have been paid by the company in which this Committee has no right to go on and call in question the acts of other parties. It is enough, Mr. Chairman, to investigate the man charged without investigating everybody else who might be charged or might be affected by something in this testimony reflecting upon gentlemen probably who would want to come here and testify. I don't know to whom any amounts may be paid or anything about that, but I think we will perform our duty when we confine the examination to anything that affects Senator Bailey and no one else, and the scope of that question is so broad and the examination may be leading to so many different avenues that we will be here the balance of the year making this investigation, and *for economy of time and for protecting other people from having their names brought into the newspapers and demanding an investigation that will take up more testimony, I make this objection.*

Mr. Cocke: I would like, Mr. Chairman, to have the privilege of examining the books now before the Committee, especially the journals, the private ledgers that show these outlays incident to the readmission and litigation then pending, and also to have the privilege to carefully go through these voucher records and ascertain whether or not there are any entries contained in these books that

would throw light on the allegation that there was a conspiracy between these parties, and that these several sums of money, especially the hundred thousand dollars—

The Chairman: You want permission to examine the books—how long a time would it take you?

Mr. Cocke: It will take some time. I understand counsel have an objection to it.

Mr. Penn: Mr. Chairman, these books are brought here voluntarily by the Waters-Pierce Oil Company for the purpose of allowing this Committee to go into them in view of these vouchers that are under investigation before this Committee. The company is perfectly willing for the Committee to have everything there is in those books with reference to those vouchers, but it was never contemplated that the members of this Committee, Mr. Cocke or any one else, *should be permitted to go into an exploring or fishing expedition into these books*, and it was my understanding at the time that these books were brought here—I was the representative of the company here speaking for them, at the time they were first brought here—that it was not the desire or intention of the Committee to undertake to go through these books outside of the entries affecting these specific charges that are under investigation here * * * I am the custodian of them before this Committee and on behalf of the company while tendering to the Committee the fullest opportunity to examine all entries in these books relating to these vouchers, I must refuse to allow Mr. Cocke or anyone else, to go into a general examination of these books which will disclose all of the private business of the company, matters in Missouri, Oklahoma, Arkansas, Louisiana and the Republic of Mexico, with the hope of thereby discovering something having a bearing on this matter. If there is some specific thing in these books that has a bearing on this matter, let us know what it is and then you are welcome to it, but we do object to any attempt at going on a fishing expedition through these books.

(Here follows a discussion at great length between Mr. Cocke, Mr. Penn and members of the Committee with reference to the above matter).

The Chairman: *I don't think they are admissible, gentlemen.*

WITNESS WAITS FOR WINK FROM BAILEY'S LAWYERS.

While Bailey's witness, Hutchinson, auditor for the Oil Trust, was on the stand, under cross-examination, he would hesitate and refuse to answer questions *until he had looked over and received a signal of some sort from Bailey's lawyers*. At this conduct the proponent of the charges vainly protested (Committee Report p. 788) as follows:

Mr. Cocke: Mr. Chairman, I want to protest against what appears to me—while Judge Penn makes his examination—an undue disposition on the part of this witness—

Mr. Chairman: *Well, I won't hear it.*

Mr. Cocke: Mr. Chairman, the witness will not answer my questions until he looks over here to see whether an objection is coming, and I think the committee is entitled to have this witness—

The Chairman: *Well, I am not going to let you lecture this witness—* (Here follows a long discussion between Mr. Hanger, Senator Bailey and the Chairman as to certain improprieties indulged in).

It will be observed from the above last quoted parenthesis that the reporter for the Committee was instructed to leave out the long discussion between Mr. Hanger, Senator Bailey and the Chairman, "as to certain improprieties indulged in." *This was one of the times Bailey exploded to the Committee's great alarm and intimidation—* hence the omission of details by the reporter, under instructions from the Committee. The Committee, or at least five or six members, were subservient to Bailey's dictation *and were in mortal fear lest "a scene" should ensue.* Bailey was boisterous and boastful and vindictive and bitter and dictatorial and vicious in these side-plays that the Committee has evidently left out of its report. He had around him a body guard from time to time and he and his coterie were apparently anxious to provoke the proponent of the charges into the loss of his temper and self-control, in order, the author has always believed, partially at least, to have an opportunity by which they might, with so-called justification, shoot him down. *The proponent of the charges, however, was engaged in a serious public undertaking and did not propose to be swerved from the people's business by the cheap and intemperate methods of would-be assassins.*

LOONEY OBJECTS TO EXPERT TESTIMONY.

While the witness Hutchinson was under cross-examination by Judge Poindexter, Senator Looney, *afterwards one of Bailey's candidates for Attorney General of Texas*, could not remain in the calm attitude of a judge, *much less pursue the course of an investigator.* On the contrary he frequently injected himself in the record *as an objector*, of which the following is an illustration (Committee Report p. 790):

A. It signified to my mind that Mr. Pierce had advanced the money out of his own personal—

Senator Looney: I don't think we can try this case on inferences and conclusions.

The Chairman: He is testifying as an expert bookkeeper as to what the books indicate.

Senator Looney: I understand that an expert's testimony is admissible only on an expert proposition. Any man can judge of that. If you propose to introduce him as an expert—

The Chairman: I understood that is the capacity in which he is testifying.

Senator Looney: Then I raise the objection that this is not a scientific proposition that an expert knows anything more about than any other common layman.

COBBS PROTESTS OVER MUCH.

While the investigation was in progress at Austin, T. D. Cobbs, who was supposed to be a member of the Investigation Committee, but along with Wolfe, of the House Committee, and Looney, of the Senate Committee, *became as active in the defense of Bailey as his own lawyers*, invited Bailey to pay him a visit at San Antonio. This was similar to a district judge entertaining an indicted man, under trial at his bar. The record is burdened with objections to testimony by Cobbs et al., of which the following is one (Committee Report p. 800):

Q. Does it mean Mr. Pierce had loaned \$3,300 for the benefit of the Waters-Pierce Oil Company and had taken a note and turned the note over to them or had taken a due bill or some evidence of indebtedness?

Mr. Cobbs: *I think I will object to that question*, asking for a conclusion of a witness who is a bookkeeper, whether or not it was done for the benefit of the Waters-Pierce Oil Company.

Mr. Jenkins: I am not asking for whose benefit it is done.

Mr. Cobbs: I would hate to be tried on questions of that sort, when it is somebody else's transactions, a transaction for somebody else.

Mr. Jenkins: *These entries mean something or they mean nothing*. We are entitled to know what it is.

Mr. Robertson (as Chairman): I think the question is proper.

Mr. Cobbs: *Note my protest to that*.

BAILEY REFUSES EXAMINATION BY COCKE OR HIS COUNSEL.

At the conclusion of Bailey's examination in chief (Committee Report pp. 825-932) Odell, as Bailey's leading counsel, said:

I have this further statement to make to the Committee: As far as we are concerned, we have concluded with the hearing, in so far as Senator Bailey's own statement is to be heard at this particular time. We now tender Senator Bailey to both the House and Senate Committee for the purpose of having him interrogated to the fullest concerning all these matters about which he has made his statement. The Senate Committee is represented here, not only by eminent lawyers who compose that Committee, but by special counsel. The House Committee is represented here by its own members, who are not only good lawyers, but most, if not all of them, distinguished lawyers in their profession. Many of the members of both the Houses, I say many of them—I will say some of them, some of the members of both the House and the Senate committee have at least heretofore been opposed to Senator Bailey, and were strong adherents of the original resolution known as the "Duncan Resolution," pending both before the Senate and House. It has occurred to counsel for Senator Bailey that, while it would be entirely proper to submit him for any cross-examination by these two committees, composed as I have heretofore

stated, to any cross-examination on the part of counsel representing the Senate Committee, that we would be derelict in our duty to both, to the committees, to the country, and to Senator Bailey, *if we did not suggest on his behalf that it would be entirely improper for him to be examined by the proponent of the charges*, for the reason, among other things, that the charges in themselves carry with them such reflections on the standing and character of Senator Bailey as a man and as a Senator, that no self-respecting man under the circumstances could or would submit himself to an examination by the proponent of the charges under the circumstances. In the second place, the charges in themselves are of such a nature that it has occurred to us that the proponent of the charges, undertaking to examine Senator Bailey touching them, *would of necessity be provocative of such a possible scene of disorder in this Committee as to be unseemly, untimely and uncalled for, and, therefore, for the purpose of preserving the decorum of this investigation*, to the end that the truth may be fairly arrived at and fully elicited by the examination, [?] that this Committee is not only capable of but will undertake it. In the examination of Senator Bailey as a final result of the conference of Senator Bailey's counsel, we have determined to enter our protest against any proposed examination of him by the proponent of the charges in the first place, *and in the second place, now inform the Committee that Senator Bailey will not submit to it*. With this statement Senator Bailey is in the hands of the Committee for the purpose of being cross-examined to the very fullest, with reference to these charges.

COCKE EARNESTLY PROTESTS.

After some discussion by the Committee, and seeing that the Committee would probably not require Bailey to submit to a cross-examination by the proponent of the charges, *notwithstanding the Committee and Bailey's lawyers had made every promise at the outset so to do, when Bailey refused to take the stand*, Mr. Cocke (Committee Report pp. 934-935) said:

Mr. Cocke: Mr. Chairman, I believe that my conduct throughout these proceedings, while not tempered with that discretion that should always characterize a man's conduct, perhaps, and while exhibiting at times possibly a degree of zeal and feeling natural to one who believes himself engaged in a righteous cause, may have been calculated to bestir sentiments of resentment and possibly of anger by gentlemen taking a different view; nevertheless, I think it will be conceded upon sober reflection that I have not been disposed to disturb the orderly conduct of your hearings nor to detract from the dignity of these proceedings. When I prepared these charges it was done without consultation with hardly a human being. *They were not, as some have been disposed to think, the emanation of other gentlemen, those hostile to Mr. Bailey; they were prepared as a result of the invitation of himself and his friends looking to an examination*

into the truth or falsity of the charges made and then current, and were made without the slightest feeling of anger or enmity on my part. While the language of the charges may sometime have been inaptly couched, they were nevertheless inspired by a patriotic motive, and, indeed, much as gentlemen may be unable to see it, with sorrow in my heart that such expressions and such charges by virtue of legislative developments with reference to the investigation, should be necessary. I realized the importance and responsibility assumed, and I therefore took the precaution in filing the charges, to ask the committee's permission to withdraw those charges unless I should be permitted to be present and seek, so far as I might in my earnest way, to look into their truth or their falsity. I thought that much was due to me, assuming the responsibility invited to be assumed by the Legislature. I acted in good faith on Mr. Bailey's own suggestion to the Legislature, that in one way or another, through his friends, perhaps, *that he was willing to submit to a thorough investigation, if any one would assume the responsibility of formulating the charges.* It is unnecessary for me to consume the time of the committee with a rehearsal of the incidents of your early meetings, hearings and the efforts one way and another to secure counsel for the proponent of the charges, and I now feel that an injustice has been done me, not intentionally perhaps, by any one, but nevertheless an injustice, in not advising me candidly some days ago that this would be the situation at this juncture. I had even thought, in view of the newspaper reports and rumors and feeling that had been injected here, of the propriety of asking the committee to elicit from the counsel for Mr. Bailey an expression on this point, so that I might make an extraordinary effort to secure counsel, if I regarded it as important. I have no criticism to offer of counsel on the opposition. I have no doubt they have pursued their employment, *whatever it may be, whether friendly or otherwise,* as to them seemed proper and right. I do think now, however, gentlemen, that it is an injustice to me not to allow me to develop these charges as I believe they should be developed, *in a thorough and searching cross-examination of Mr. Bailey.* I should endeavor to display no feeling and no unjust imputations that would be calculated to injure the man's feelings. On the other hand, I know of no way to carefully and thoroughly investigate serious charges involving the personal and political integrity of a man—and I am not speaking now as to their truth or falsity—without asking questions that must be necessarily embarrassing. I don't see how this committee, I don't see how Mr. Bailey's counsel or Mr. Bailey himself could expect questions to be asked here that would not be embarrassing, if they went to the bottom of this investigation. Now, I am disposed, as I have always been disposed, to yield to the forms of constituted authority, *although I may at times believe they exist in form and not in substance.* At the same time, having made this statement, I shall ask this committee to take a vote on this question,

and if they vote that I have not the right, of course I shall in the nature of things be compelled to yield to their conclusions. In that case, however, gentlemen, I have prepared a large number of questions, typewritten questions, that I desire the committee shall have asked Mr. Bailey if they deny me that privilege. That is another question for your consideration. I do feel that I should have had notice of this some days ago, and I even now, perhaps, feel it is due me that the committee should adjourn these hearings until I can get a competent attorney to represent me in this matter. * * * Judge Poindexter *does not want to be put in the attitude of representing the prosecution*, as it is called, in this proceeding. I realize also that it would be extremely difficult for any attorney to come here now, not having been present throughout these proceedings, and conduct this examination. I believe that my familiarity with the testimony, both before this committee and as a result of such investigations as I have had time and opportunity to make with the limited resources that I have at my command, that there are some questions, without assuming any undue modesty in the matter, that I might propound which would be calculated to elicit the truth to a degree that would hardly be possible of any one not present throughout the hearings. Having made this statement and desiring that you shall have in mind the questions that I have prepared, I leave the matter with the committee.

SENATOR SENTER'S VIEWS.

The proponent of the charges had been without counsel for about four out of the six weeks consumed by the investigation, on account of the fact that General Crane and Judge Cockrell could not remain away from their private engagements so long, and on account of the further fact that the Committee refused to allow the proponent of the charges to make other arrangements for legal assistance. *The truth of the business is that the Committee was simply cowed and afraid to undertake to force Bailey to submit to a searching cross-examination.* Several members of the committee came to the proponent of the charges and requested him to waive his right to examine Mr. Bailey. This he refused to do, *telling them if they did not have nerve enough to make Bailey behave himself they would at least have to get in the record as voting to deny the proponent of the charges the right, which they all conceded to be a right, to examine Mr. Bailey just the same as any other witness.* In connection with this discussion Senator E. G. Senter, of the Senate Committee said (Committee Report p. 935):

Mr. Chairman, I desire to make this statement: I think as suggested by Mr. Odell, Senator Odell, that there is no occasion here for anything that may disturb the peaceable progress of these proceedings, but in the attitude in which this is now left, the proponent of the charges is left without an attorney before these proceedings, before this Committee. Now, I feel that I would be doing violence to

my own conviction of what is fair and just, just as just to me as it is to those who oppose me in this matter, that the proponent of the charges should not be left in the attitude of being without an attorney. The House committee has, for reasons, not seen fit to permit him to be represented by some gentlemen here, *and the net result of the matter is, he has been left to conduct his own case.* It is a matter in which I think he is entitled to an attorney, and I do think and I now want to register my protest, so far as I am in any degree responsible for these proceedings, I do think that if he is not permitted to examine, to cross-examine Senator Bailey—and I am disposed to concede that that is not necessary in the just attainment of reaching the ends of justice in the matter, but I do think that under such circumstances he should have time to arrange for an attorney here, a competent attorney to represent him in the proceedings.

From the foregoing it will be seen that Bailey not only refused to be examined by the individual who brought the charges against him, *and that at his own invitation and the invitation of his friends,* but refused to be examined by either of the attorneys that assisted him in the early part of the investigation. *There is perhaps no parallel in history where an accused, be he high or low, ever so completely dictated and domineered the proceedings incident to his trial, as Bailey did in this case.* In spite of the fact that the Resolution was drawn for his protection, rather than for his investigation; in spite of the fact that a majority of the committee were determined beforehand to proclaim him guiltless, however guilty; in spite of the fact that said committee had, at about the first meeting thereof, *actually agreed to accept Bailey's three lawyers as counsel for the committee;* in spite of the fact that the committee sought to exclude the proponent of the charges from its hearings (and would have done so except he had taken the precaution of reserving the right to withdraw the charges unless they allowed him to be present); in spite of the committee limiting the proponent of the charges in the selection of his attorneys (which finally resulted in his being without counsel most of the time); in spite of the fact that the rules adopted by the committee and the construction placed thereon from time to time were intended to shield the accused in every way possible; *in spite of Bailey's refusal to be cross-examined in a searching, exhaustive and aggressive fashion;* in spite of all that, Bailey, with his pomp, his riches, his prestige, his power, and with the aid of his three shrewd, cunning and consciousnessless attorneys, as well as with the aid of a number of partisan attorneys on the committees—in spite of all this, his record was so indefensible and the case against him in its material aspects was so malodorous and strong as to condemn him utterly in the minds of all those who will take the pains and exercise the patience to peruse the following chapters setting forth the testimony.

BAILEY BALKS AGAIN.

Towards the conclusion of the cross-examination of Bailey, such cross-examination as it was, the proponent of the charges being wholly dissatisfied with the character of examination to which Bailey had been subjected said (Committee Report pp. 982-3):

Mr. Cocke: Mr. Chairman, it is just a few minutes before we adjourn at the noon hour—Colonel Jenkins does not feel like asking the bulk of questions I had prepared, and in view of that possibility, I telephoned last evening to my attorneys and secured from them a promise that either Judge Cockrell or General Crane would come down tonight and be here in the morning, provided the hearing would be on, and I would be given an opportunity to cross-examine at that time. I do not mean to be lacking in the profoundest respect for the gentleman who has entered into this cross-examination, or the gentlemen of the committee who might do so, though I do not feel that this cross-examination has been of that incisive, aggressive kind that is calculated to elicit all the truth, and I therefore, ask the committee to assure me that this cross-examination may be continued tomorrow, whereupon I will have either Judge Cockrell or General Crane come down on the train tonight.

The Chairman: Well, that is a matter for the committee.

Mr. Cobbs: Mr. Chairman, it is twelve o'clock and some of the committeemen are down stairs engaged, and I move we adjourn, take a recess until after dinner, and then we can determine that.

Senator Bailey: I simply want to say this, neither this proponent of these charges nor Crane nor Cockrell nor any other man who has ever *assailed my personal or political integrity will be permitted to interrogate me. I have allowed those men to talk about me in the papers and on the stump, but no living man is going to sit to my face and insult me with those questions, and the committee might just as well know it.* (Committee Report p. 983.)

And thus did the innocent Standard Oil misrepresentative of Texas escape from answering a few plain questions by the proponent of the charges (or his attorneys) to whom he has been pleased to refer as "The Little Idiot from San Antonio."

ANTIDOTES FOR BAILEYISM.

Cunning has effect from the credulity of others. It requires no extraordinary talents to lie and deceive.—*Johnson*.

A fool may have his coat embroidered with gold, but it is a fool's coat still.—*Rivarol*.

The first step in debt is like the first step in false-hood, involving the necessity of going on in the same course, debt following debt, as lie follows lie.—*S. Smiles*.

Debt is to a man what the serpent is to the bird; its eye fascinates, its breath poisons, its coil crushes sinew and bone, its jaw is the pitiless grave.—*Bulwer*.

The rake-off, the draw-back, the rebate, and the secretly employed political lawyer, are as corrupt and corrupting in politics as they are dishonest in business and vicious in morals.—*The Author*.

The rich ruleth over the poor and the borrower is servant to the lender.—*The Scripture*.

There are none so blind as those who refuse to see.—*Anon*.

Deceivers are the most dangerous members of society.—They trifle with the best affections of our nature, and violate the most sacred obligations.—*Crabbe*.

No man, for any considerable period, can wear one face to himself and another to the multitude, without finally getting bewildered as to which may be true.—*Hawthorne*.

The rebater and the grafter in political and industrial life, are essentially as criminal as the horse thief or the highwayman; both classes are, or should be, outlaws.—*The Author*.

It is as easy to deceive one's self without perceiving it, as it is difficult to deceive others without their finding it out.—*Rochefaucauld*.

O, what a tangled web we weave, when first we practice to deceive.—*Walter Scott*.

Mankind, in the gross, is a gaping monster, that loves to be deceived, and has seldom been disappointed.—*Mackenzie*.

He that ruleth his own spirit is greater than he that taketh a city.—*Proverbs of Solomon*.

When desperate ills demand a speedy cure, distrust is cowardice, and prudence folly.—*Johnson*.

The horse thief and the highwayman commit overt acts of outlawery, while the political grafter, Brutus-like, stealthily stabs the people, whom he falsely professes to love, and Judas-like, betrays them with a kiss.—*The Author*.

Defeat is a school in which truth always grows strong.—*H. W. Beecher*.

The worst deluded are the self-deluded.—*Bovee*.

We strive as hard to hide our hearts from ourselves as from others, and always with more success; for in deciding upon our own case we are both judge, jury, and executioner, and where sophistry cannot overcome the first, or flattery the second, self-love is always ready to defeat the sentence by bribing the third.—*Colton*.

No degree of knowledge attainable by man is able to set him above the want of hourly assistance.—*Johnson*.

The man who enters or remains in the public service, expecting thereby to become rich, had better never been born; such expectation will either be disappointed, or gratified at the expense of the people.—*The Author*.

He that oppresseth the poor to increase his riches, reproacheth his Maker, and shall surely come to want.—*The Scriptures*.

We are but the instruments of heaven; our work is not design, but destiny.—*Owen Meredith*.

No sooner is a temple built to God, but the devil builds a chapel hard by.—*Herbert*.

The inward sighs of humble penitence rise to the ear of heaven, when pealed hymns are scattered to the common air.—*Joanna Baillie*.

True dignity is never gained by place, and never lost when honors are withdrawn.—*Massinger*.

CHAPTER XIV.

BAILEY PRACTICES BEFORE GOVERNMENTAL DEPARTMENTS "FOR LOANS," ETC.

Bailey, like Senator Burton of Kansas, practiced influence before the various United States Governmental Departments at Washington almost from the beginning of his career. Bailey practiced for loans, etc., Burton practiced for a fee; Bailey denounced the allegations against him in this connection as "lies"; Burton frankly admitted his single transaction, and was sent to jail. He is quoted as having afterwards said that he, like his conferee Bailey, "should have taken a loan."

BAILEY ON BURTON.

When Senator Burton was called to answer, in the Federal Courts, for his misstep, Bailey became righteously indignant (?) and vehemently impatient that the Senate should summarily act on Senator Burton's case without waiting for him to prove his guilt or innocence before the courts. Bailey even said that Burton "ought to resign and give his people a chance to fill his place while the case against him proceeds." Why, then, did not Bailey resign from the United States Senate while his case proceeded before the Texas Legislature? And why did he not refuse an election until after his investigation? And since he wrote his own vindication, or had it written in his presence in the cloisters of his hotel, and since that vindication has not, in fact, vindicated him with unnumbered thousands of his constituents, why, according to his own advice to the Senate in Burton's case, does he not "resign and give his people a chance to fill his place"? For Bailey said to the Senate also concerning Burton: "Unless he represents a constituency unlike any that I have ever known, if he can vindicate himself against the charge, they will call him back into their honorable service with renewed devotion to him." The injunction, "Physician heal thyself," seems never to have impressed itself on the mind of the irate Standard Oil Senator from Texas.

But to give Mr. Bailey the benefit of his own words concerning Burton (Congressional Record, December 18, 1905, p. 501), "I believe the rule—the best and safest rule—is that when a senator finds himself compelled, by a sense of delicacy towards his associates, to absent himself from the senate, he ought to resign and give his people a chance to fill his place while the case against him proceeds, and, unless he represents a constituency unlike any that I have ever known, if he can vindicate himself against the charge they will call him back into their honorable service with renewed devotion to him."

But if a senator so situated will not resign, the senate ought either to relieve him from the sense of delicacy which keeps him from the chamber or else it ought to relieve his state from the representation of a man that it will not allow to exercise the rights and privileges of his great office.

"There have been within the last ten years five indictments of senators, and each of those indictments implied a crime committed for the sake of money. *It is time that the senate was testifying to the world that this is no place for a man who wants to make money illegally or unfairly, not to say dishonestly.*

"If a man in an unfortunate personal encounter should be compelled to take the life of his fellowman, that might or might not unfit him to be a senator. It would depend entirely upon the provocation. It sometimes happens that high-minded men are compelled, by a sense of self-respect, to slay; *but it never happens that a high-minded man attempts to line his pockets with dishonest gain.*

"The only question in my mind for the senate to decide is whether the senator attempted to traffic in his great office. If he did, there is no justification for him; if he did not, we ought to certify to the world that he has been accused without sufficient reason.

"I protest against leaving the senate to suffer under the ribald jests of many good men while the court slowly proceeds with an inquiry which we ought to conduct and conclude without delay."

Texas and Texans throughout the entire United States are now called "to suffer under the ribald jests" of all intelligent men who laugh and sneer at the people of Texas for their blind adherence to their erstwhile idol. Verily we have become the laughing stock of the nation.

LAW OF LOANS IN TEXAS.

While the following Texas Statute, Section 160, Page 559, General Laws, Twenty-Ninth Legislature, technically applies to Texas elections alone, nevertheless it discloses the principle and practice of the law of political loans and denounces the lender as "a felon," to be confined in the penitentiary and renders him "incapable of holding any office under the State of Texas." Said Statute is as follows:

"Any person who lends or contributes or offers or promises to lend or contribute or pay any money or other valuable thing to any voter, to influence the vote of any other person, whether under the guise of a wager or otherwise, or to induce any voter to vote or refrain from voting at an election for or against any person or persons, or for or against any particular proposition submitted at an election, or to induce such voter to go to the polls or to remain away from the polls at an election, or to induce such voter or other person to place or cause to be placed his name unlawfully on the certified list of qualified voters that is required to be furnished by the county tax collector, is guilty of a felony, and on conviction shall be punished by confinement in the penitentiary not less than one year nor more

than five years, and in addition shall forfeit any office to which he may have been elected at the election with reference to which such offense may have been committed, and is rendered incapable of holding any office under the State of Texas."

The foregoing Statute would apply in principle not only to Francis and Pierce in their numerous "loans" to Bailey but to all the other individuals who paid tribute to his influence in the forms of so-called loans, endorsements, etc., as disclosed by the minor or supplemental charges in this chapter reviewed.

Just as the foregoing Statute describes the crime and the penalty of the political money "lender," so also does the following Statute describe the crime and penalty applicable to the political "borrower"—*in this case J. W. Bailey.*

"The penalty prescribed in the last preceding section against those who violate any of its provisions shall be imposed on any one who receives or agrees to receive any money, gift, loan or other thing of value, for himself or any other person, for voting or agreeing to vote, for going or agreeing to go to the polls on election day, or for remaining away, or agreeing to remain away from the polls on election day, or for refraining or agreeing to refrain from obtaining his poll tax receipt or certificate of exemption, or for obtaining or agreeing to obtain the same, or for voting or agreeing to vote for or against any particular person or proposition submitted to a vote of the people."

In principle, then, under Texas Law, a man who makes political loans or receives political loans is a felon to be confined in our penitentiary and "rendered incapable of holding any office under the State of Texas."

GOVERNMENT MULE CONTRACT.

CHARGE NO. I.

The following evidence in support of the minor charges against Mr. Bailey, sufficient in themselves, however, to disqualify him as Senator from Texas, was presented to the Investigation Committee of 1907, including some excluded testimony. In each case Mr. Bailey's own testimony is first given.

Charge number I was as follows: "That J. W. Bailey, while a member of the United States Congress, became financially interested in a certain mule contract with the United States Government, in violation of the law and in contravention of his Congressional duties, said contract having been procured for one Steger, or Steger & Labatt, of Texas, by said J. W. Bailey."

The witness Bailey (continuing p. 902): That is a pure, undiluted lie from beginning to end, without a shadow of truth in it. The fact of it is that the contract was procured before I knew a word about it. The first I knew about the contract was when Mr. Steger came from Bonham to Gainesville to see me about the failure

of the government to receive all the mules which the government had bought from him, and I told him that as soon as I went to Washington I would take it up with the War Department and see what could be done about it. [The only error in this charge was as to Bailey having secured the contract originally, whereas the proof showed that Bailey assisted in getting the War Department to complete the contract, which, in effect, was the same thing. That is, it was practice before the Government Department for which Bailey so severely condemned Senator Burton of Kansas.] * * * I think maybe I didn't get the order for those mules until February or March following the June or July when they were sold for delivery, and when they had been bought and ready for delivery, I didn't know anything about Mr. Labatt in the transaction until afterwards, and either he or Mr. Steger, or both of them were talking to me about it. I believe Mr. Labatt secured the contract, but in view of the fact that Steger was to furnish the money, the correspondence was in his name, and that's all I had to do with it.

The witness Bailey (continuing p. 931):

Senator Odell, I have had rather a peculiar view about charging anybody for any service in that way. Of course, I would not charge anybody for any service at the departments at Washington—if there were no law on that subject, I would not do it because I think there is a clear impropriety, but I have always had a different notion from other lawyers about it. I never charged a fee in my life for appearing before any department in the government. * * * It always appeared to me a matter of influence rather than a matter of legal right, and I never would take a fee in a case like that. [Anyhow there was always a loan or a draft or an endorsement or a "horse trade."] When that Spanish war was over, I had my district pretty well cleaned up of Spanish ponies and such as that. I felt like I had done my people a service.

TESTIMONY OF J. E. LABATT.

CAPTAIN J. E. LABATT

was sworn and testified (Investigation Committee Report, pages 153-159) as follows:

I live in Fort Worth, Texas. I know Messrs. Steger of Bonham. Have known them for several years. I think the first contract I had for furnishing the United States government with mules and horses, in which Mr. Steger was interested, was in 1896. We had a later contract in 1898. I was the contractor. Mr. Steger and the banks furnished the money. Mr. Steger and I had a partnership agreement whereby we were to share the profits and losses—he was doing the buying.

When we were ready to take down the profit the inspectors got

them to inspect them. When he had inspected 400 he was stopped. I was informed by the Quartermaster General that in Cuba and the islands, that the streets were so narrow, that they could not use six mules with the wagons like they did with our army here in the United States, *and consequently they would not take the lead mules for a while.*

I turned 400 in, wheelers and swings, and the government took 398 mules, rejecting only two out of the selection we made for them. Mr. Steger finally, after about eight months, turned in the remaining 400 to the government. We had them on our hands, at our expense, during that time. The whole matter was in Mr. Steger's hands. Since which time I have had nothing to do with it except waiting. Trying to get a settlement with Mr. Steger for about \$68,000. I don't know the amount, the lawyers made that up. [This controversy between Steger and Labatt has no bearing on the case against Mr. Bailey specially. Bailey's practice before the department came in through his successful effort to get the department to take the *400 lead mules* from Steger and Labatt. Which was finally done and Steger was paid the money. A part of which Bailey evidently received. Then it was that Labatt sued Steger for an accounting. We may well suppose after Steger got through dividing with Bailey, he had nothing left for Labatt.]

STEGER IN TROUBLE WITH THE GOVERNMENT.

JOHN W. RUSSELL

a witness for Mr. Bailey and brother-in-law of Mr. Steger, testified (Bailey Investigation Committee Report, 1907, pages 283-284), in part as follows:

Q. Do you know whether or not Mr. Steger had some trouble with the Government one time in getting that contract through?

A. I think they failed to carry out their part of the contract, one part of the contract, but afterwards took it. [That is the Government took the mules]. I do not know for a certain, but I think he [Steger] wrote to Mr. Bailey about it, but I am not sure. All I know is that Mr. Steger wrote to Senator Bailey [then Congressman Bailey] to get him to intercede for him; to call the attention of the proper authorities. [That is to practice influence before the department, whether for pay in violation of the Federal law or as a duty to a constituent—that is the question?]

BAILEY DRAWS ON ED. STEGER, GOVERNMENT MULE CONTRACTOR, FOR FIVE HUNDRED DOLLARS, ETC.

D. W. SWEENEY

a witness for the proponent of the charges, was sworn and testified (Bailey Investigation Committee Report, 1907, pages 281-282) as follows:

My residence is Bonham, Texas; my occupation, cashier of the

First National Bank for the last ten or twelve years. Yes, I know Mr. Steger was buying horses and mules for the United States Government between 1897 and 1901, especially in 1898 and 1899. During the period, 1898-1899, one draft by Mr. Bailey on Mr. Steger was sent through our bank. I think it was for \$500. It was a plain draft drawn by J. W. Bailey on Ed. Steger through the Riggs National Bank at Washington.

I have an indistinct recollection that there was another small draft for possibly \$300, or might have been more. My recollection is distinct on the \$500 draft.

BAILEY VISITS BONHAM WITH GOVERNMENT MULE INSPECTOR.

MR. C. H. WHITE

of Bonham, Texas, testified (Bailey Investigation Report 1907, pp. 282-283) in substance as follows:

My residence is in Bonham, Texas; I have lived in Fannin County nearly 42 years, 17 years I have lived in Bonham; at present in the hotel business.

I saw Mr. Bailey in company with Mr. Ed. Steger in the town of Bonham. During that time Mr. Steger was supplying the Government with mules and horses in 1898-1899, and in company with other gentlemen, but who they were I do not know. They were strangers to me. I can tell you what they purported to be [Government mule and horse inspectors], but as to my knowledge of it, I do not know. I saw him there on several occasions. I saw them at the hotel there together, and saw them going and coming out in a northern direction. [The direction of the corrals where the stock were being kept.] I am sure he was with Ed Steger. I saw them going out in a northern direction where the corral was established and saw them return to the hotel on several occasions.

A MEMBER OF THE PRESENT MILLER'S TRUST TESTIFIES FOR BAILEY.

MR. GUS STEGER

was called by the Committee and being examined by Mr. Wolfe, a Bailey partisan, testified (Bailey Investigation Committee Report, 1907, pages 284-285), in part as follows:

I live in Bonham; I am in the milling business; a brother of Ed. Steger. I remember when Ed. Steger and Labatt had a contract with the Government for furnishing some horses and mules. I was a partner with my brother Ed. Steger in the matter of the mule contract as was my brother Virge, but my brother Rob was not.

I do not know anything about the \$12,500 draft which is said to have been drawn by Mr. Bailey against my brother Ed Steger during the pendency of that contract. I do not know about any draft, if there was ever any draft, I would not undertake to say that it is not true that Senator Bailey drew on my brother Ed for different amounts of money at different times; neither can I say whether or

not he loaned him money or endorsed for him at the time this contract was pending. We had a contract * * * and they did not take them up at all for six to eight months I reckon. I don't know just how we got the Government to continue with that contract, but they took them up I think February after that June, finished taking them up. I think Ed went to Washington once or twice to see about it. I think Ed said that Senator Bailey introduced him around at the War Department, and probably was instrumental in getting—any way, in helping him to have them taken up. That was after Captain Labatt had dropped out of the proposition.

I admit that my brother may have had a private understanding with him that I knew nothing about. Of course I could not know. I just don't know of any correspondence. I think it was 301 head that we fed so long. [As usual when a shady transaction was to be covered up, Bailey and his lawyers or some partisan on the Committee would drum up some stallion or bull trade as an explanation for otherwise apparently dirty work. So it was in this case. The defense tried to say that Bailey and Ed Steger owned a stallion together but none of their witnesses would undertake to testify about the date of the stallion deal. This witness said "he could not come within one or two years of it," and from the best information the author could gather, this stallion deal was about two years after the mule contract with the Government was concluded.]

MR. W. T. GASS, A LIFE-LONG DEMOCRAT, TESTIFIES ABOUT BAILEY AND THE GOVERNMENT CONTRACT.

MR. W. T. GASS

witness for the complainant, testified, (Bailey Invest. Com. Report, 1907, pages 408-409), in substance, as follows:

I live in Como, Hopkins county, editor of the Hopkins County Democrat. I know what Mr. Steger told me about the Steger and Labatt government mule contract. I also know that Steger bought about 700 head of mules and 600 head of cavalry horses in there during the Spanish-American War. I was living at Bonham at the time editing the Bonham Chronicle Weekly. All I know is what Colonel Ed Steger told me—[the examination of Mr. Gass was conducted by Mr. Wolfe of the House committee just as if he was Mr. Bailey's lawyer and Mr. Gass was not allowed to testify to what Ed Steger had told him about his dealings with Bailey and the fact that Bailey made the Stegers divide profit with him on the government contract in consideration of his, Bailey's, work before the War Department. Mr. Gass is a very worthy man and would not have testified to anything other than what Steger, one of the parties in interest, told him.]

I saw Mr. Bailey in Bonham after this contract was filled and the horses delivered about two weeks afterwards I think; inside of a month.

I can't tell you exactly when the stallion was shipped with refer-

ence to the time of the completion of this mule contract. It was shipped though, after I saw Mr. Bailey. [That evidence puts the stallion trade after the \$500 testified about by banker Russell had been paid to Bailey by Steger, which payment was made while the stock were yet being delivered or waiting for delivery. Indeed this stallion trade, that they conjured up, as an explanation, may have been part of the original plan. The Committee refused to let the sub-committee go to Bonham and further investigate the bank records and interrogate other witnesses there.]

COLONEL ED. STEGER APPEALS TO BAILEY CONCERNING MULE CONTRACT.

COL. ED. STEGER

a Bailey witness, of Bonham, contradicts Banker Russel and other evidences of his having paid Bailey for practicing before the War Department, as shown by his testimony (Bailey Invest. Com. Report, 1907, pp. 501-508.)

I had trouble in getting the Government to accept all the mules and horses—300 mules in 1898. I solicited the services of Senator Bailey in my behalf. I went to Washington and appealed to Mr. Bailey, who was then my Congressman, to help me get an order from the War Department to send back the same inspector, Major Tom Cruse, and he took the 300 mules in February. Nothing was ever said about my paying for the services. He never drew any checks or drafts in that connection. I did not know Mr. Bailey very well before then but it was during that time that I got very well acquainted with him. I had tried every other means to get the mules taken up before I appealed to him; made a trip to Washington and two or three trips to St. Louis in the spring or summer of 1898. They kept putting me off until finally Senator Bailey got them to send the inspector down to take the remaining 300 mules, in February ['99]. I know I made one trip to Washington, perhaps two or three, met Senator Bailey there and went with him to the Department.

If any one has testified that a draft for \$500 was drawn on me before the final delivery of those mules by Senator Bailey, I think that is a mistake. I have no recollection of any such draft. I have no recollection of a \$500 draft at all.

Every member of my family is a warm friend of Mr. Bailey.

CONTRACT FOR THE BRITISH GOVERNMENT.

I have had a great many contracts with the British Government.

Q. Has he assisted you with your contracts with the British Government?

A. I went to him.

LETTER FROM NORTH TEXAS BANKER CONCERNING STEGER-BAILEY
GOVERNMENT MULE CONTRACT.

Besides numerous verbal reports of similar character, the following letter to the author at Austin, Texas, while the investigation was in progress and signed by a banker living in an adjoining county to Fannin, of which Bonham is the county seat, is significant: "Yours of 30th inst., just received, and in reply would say that some time during the Spanish-American War, while Steger was buying mules and horses for the Gov., I sold some mules to Mr. R. E. Steger. At the time, Mr. Steger spoke of one mule that had a slight defect, and said that he was afraid the Gov. would knock him out. I told him that if he did not go I would take him back. Some time after this R. E. Steger wrote me that the Gov. had refused to take several, and for me to go up and pick out the mule that I had sold him, as he could not remember which one it was. I went to Bonham and met Mr. Steger (R. E. Steger), and adjusted the matter and on this occasion Mr. R. E. Steger had a great deal to say about their stock business with the Gov. He told me what they were getting for the mules and horses, and what they had paid for them, and the number they had handled, and the profit they had made. I, in response to all this, stated that they had made quite a nice little sum. Mr. R. E. Steger, said in reply to this that they were out considerable in expense, as they had to pay their man for buying, had to feed and take care of the stock until received by the Gov., and in addition to this that Ed. had to pay J. W. Bailey \$5,000 to get this contract. I can not remember the date, but Mr. R. T. Steger gave me a check on this occasion for the mule, about \$70, but as our bank was burned out on the 12th day of Oct., 1905, and great deal of the bank records, I am unable to furnish the date."

In view of the foregoing testimony, the following finding of the majority of the Suppression Committee is laughable as well as ridiculous. "We find that there was no evidence offered tending to sustain this charge. On the other hand, affirmative evidence was offered disproving the same, and we find that said charge is untrue."

GOVERNMENT CATTLE CONTRACT.

CHARGE NO. 36.

Charge number 36 was as follows: "That J. W. Bailey, while a Senator from Texas, assisted F. J. Hall in the collection of an account against the United States Government for furnishing beef at Anadarko, Indian Territory, or Oklahoma, and appeared for the said Hall before the department having charge of same at Washington, D. C., and for said services received from said Hall a fee, loan or gift amounting to a considerable sum of money, *the particulars of which are well known to the said J. W. Bailey.*"

The witness Bailey (continuing p. 904)—

Q. What about that charge?

A. That is a lie from the beginning to end, except the statement I went to the department in order to expedite the settlement with Mr. Hall. Mr. Hall was a neighbor of mine as well as a constituent, and also a friend. He sold the Government some cattle and delivered them. The Government branded them and turned them loose on the Indian reservation for the Indians. Instead of paying Mr. Hall promptly, as it ought to have been done, it delayed the payment, as the Government so frequently does, and Mr. Hall came to me and told me he owed the bank this money and that the bank wanted it. He had expected to pay them within a short time after the cattle were delivered, and payment had been delayed months, maybe three or four months. He asked me to see about it—possibly he wrote me before Congress adjourned, I am not sure about it, but I know he talked with me about it just before I started to the Democratic National Convention in 1896, and while at Chicago I received a telegram from him urging me not to forget or neglect seeing the department at Washington with respect to this settlement, and I went from Chicago to Washington to see about it, and I succeeded in having the department to settle it and pay him the money. I came on back to Gainesville, and almost by the time I was there, as I recall it, they had sent Mr. Hall his money; and I not only did not receive five cents for my services, but I did not allow Mr. Hall to pay my expenses. [But he had some "loan" transaction with Hall.]

The following written information upon which the foregoing charge was based was furnished to the writer by Hon. W. O. Davis, Ex-State Senator from Bailey's own county. "Soon after Bailey was elected to the Senate, F. J. Hall, then of Gainesville, but now Sheriff of El Paso, Texas, had an account against the United States Government for furnishing beef at Anadarko, and for some cause payment was stopped at Washington. Bailey looked after the matter at Washington before the Department, and charged Hall Five Hundred Dollars, which Hall paid. Hall is unreliable and his testimony is not to be depended upon, but the proof can otherwise be made."

F. J. HALL TESTIFIES ABOUT BAILEY AND CATTLE CONTRACT IN THE INDIAN TERRITORY WITH UNITED STATES GOVERNMENT.

MR. F. J. HALL

witness for Mr. Bailey, testified (Bailey Investigation Committee Report, pages 161-170), as follows:

I sold the Government some heifers; sold them about \$40,000 worth of heifers, and they sent a man from Washington down there to receive them, and I turned them over to him, and they agreed to send me the money in twenty or thirty days, and it lingered along and lingered along three or four months, and I wrote to Mr. Bailey up there. I think I wrote him and wired him, too; I wished he would go around and see if they would not send me the money. They owed

me the money and I had their receipt for the money and they had not paid it. And after that I saw Mr. Bailey at Gainesville, and I asked him to go around again. They did not pay it at first when he saw them, and he said he would speak to them about it again. He told me that he went around and spoke to them about it and told them they ought to pay it. I think he went in a short time after I spoke to him.

I did not come here at the request of the committee. I saw [the charges] in the paper. I came from El Paso.

The claim I had before the department was ten to twelve years ago. I owed the First National Bank at Gainesville, of which Mr. Lacey was president and Mr. Worsham was cashier and Mr. J. W. Gladny was bookkeeper. I did not tell both of them that I had to pay Senator Bailey \$500—never told them anything about paying or promising to pay Senator Bailey anything for that. I do not know that I ever made any statement about it at all. I do not say that I did not. *I do not know that I did not.* I do not remember of ever talking to them about it. I would not say anything about any conversation about paying Senator Bailey any sum of money out of that, because it has been a good while ago.

I have loaned Senator Bailey money a good while ago. I went on his note or something of that kind. He always paid it. I loaned him money or went on his note a time or two, which has been a long time ago. I could not tell you when. I could not tell you when it was I endorsed his note; nor how often.

Payment [for the heifers from Washington] was not stopped; they just did not pay it. They kept saying that they would send it but they did not send it. I asked Senator Bailey to go around and see them and see if they would not send it. I could not remember the dates of my contract nor the dates of these loans.

It will be observed that this charge was to the effect that Bailey received "from said Hall a fee, loan or gift amounting to a considerable sum of money." Hall himself, though appearing voluntarily as Bailey's witness, *was forced to admit that they had had monetary dealings.* But the majority report of the Suppression Committee was as follows: "We find that there is no evidence in this record, nor was there any offered tending to establish any part of this charge, but the same was disproved, therefore find it to be untrue."

BURNETTE-SUGGS CONTROVERSY.

CHARGE NO. 37.

Charge number 37 was as follows: "That about the year 1901, and while the said Bailey was a Senator from Texas, said Bailey represented one S. B. Burnett of Fort Worth, Texas, in and about and concerning the leasing of certain lands in the Kiowa and Comanche Reservations from the Department of the Interior at Wash-

ington, and the said Burnett for his said services paid him large sums of money as a fee or loan or gift."

The witness Bailey (continuing p. 904)—"That is a downright and positive lie without the semblance of truth in it. The only truth or appearance of truth there is in it is that I did prevent the Secretary of the Interior from leasing grazing lands in the Indian Territory or in Oklahoma, I believe those lands are, to begin on the 1st of April. They had advertised the leases and they were to begin on the 1st of April. That meant, Senator Odell, that if the men who then occupied those lands with cattle did not become the successful bidders for the land they would have to move off by the 1st of April, and that meant they would have to begin gathering their cattle by the middle of March. * * * I went to the Commissioner of Indian Affairs, not only at the request of Mr. Burnett—Mr. Wither-
spoon, a brother of the member of the Legislature, had cattle in there, as I remember it; Mr. Carver at Henrietta, Tom Waggoner, and probably half a dozen men, every one of them Texans—so far as I know all those who applied to me with respect to the matter were Texans—and I went to the Commissioner of Indian Affairs and laid the matter before him and he agreed with me. I could not, however, of course, get him to withdraw the advertisement. * * * And I went then to the Interior Department and laid the matter before the Secretary of Interior. * * * The Secretary of the Interior heard me through and did not decide it, but said he would let me know the next morning, and I went around there and he said, and said it rather gruffly, that he had made up his mind to let the advertisement stand and would not make any change in it, and then I said with some emphasis I would see if that could not be changed. He asked me if I was going to go to Congress about it. I said no, I could do that, but there must be somebody connected with this administration with sense enough to know better than to move those cattle in the middle of March, and I will go to the President first. I went to the President about it, and I had not more than concluded a statement of the case to him before he says, "You are right, those cattle ought not to be moved at that time of the year, and they will not be moved." And the President, among his many other accomplishments, is a cowman, and he knew too well to allow them to move or force them to move at that time, and the order was issued and the leases were advertised again, as I remember it, the 30th of June, or something of that kind.

The information upon which the foregoing charge was based was in writing, furnished by Honorable W. O. Davis, of Gainesville, and was as follows: "During the fall of 1901, a controversy arose between S. B. Burnett of Ft. Worth, Texas, and Sugg Bros., of Sherwood, Texas, concerning the leasing of some lands from the Interior Department in the Kiowa and Comanche Reservations. Each party applied for a lease of the lands. Sugg Brothers are well known in Gainesville and had intimate business and personal rela-

tions with W. H. Dougherty of Gainesville, a zealous partisan of Bailey. Senator Bailey appeared before the Department and represented Burnett. The matter was one of much importance, and Burnett evidently paid him a fee for his services. E. C. Sugg is dead, but J. D. Sugg, the other partner is now living at Sherwood, Irion County, Texas."

While the investigation was in progress the writer received a letter from a trustworthy citizen of Fort Worth giving the names of witnesses who could probably testify as to the alleged fact that Burnett and his associates paid Bailey as much as \$5,000 for representing them against the Sugg brothers in this matter. In the hurry and confusion of the investigation, however, the letter was lost. Before it was lost, however, the author, at one time offered to show the letter to a sub-committee as an evidence of his own good faith. It was along about this time that Odell tried to get the committee to force the proponent of the charges to turn over every scrap of his personal and confidential correspondence in connection with this controversy. In other words, he insisted on the violation of every confidence known to the rules of private correspondence, but when notified to produce papers of his own client, Bailey, bearing upon the controversy, he refused to do so.

BAILEY FIGURES IN INDIAN TERRITORY LAND LEASES.

S. B. BURNETT

was called in by the Committee before the prosecutor was ready to use him and being examined by Mr. Wolfe testified (Bailey Investigation Committee, 1907, pages 285-290), in part as follows:

I live in Ft. Worth. I have been a personal friend of Mr. Bailey for several years. I had a little dealings with him; yes, sir. I had a little trouble with Sugg Brothers over some leases up there in the Indian Territory in the Kiowa and Comanche Reservation. I had leased big tracts of land from them. [That is from the Reservation Commissioner.] I had at one time 332,000 acres. At the time I had this difference with Sugg Brothers it was about 200,000 acres. There were 480,000 acres of country set aside up there to hold cattle on, when the country was opened up for settlement. [Mr. Odell: "I suggest it might take quite a while to try the case of Burnett vs. Suggs Bros., or vice versa." Of course, Odell, Bailey & Company were in a hurry. Perhaps Bailey's oil business required attention and possibly Odell was anxious to make that trip to New York, which he afterwards made with Bailey. As to whether or not he secured a loan from Henry Clay while they were hobnobbing at the Waldorf Astoria is unknown.]

I think the 480,000 acres of land were set aside about four years ago this last spring. It was right down on the front of Red River, across the river from my ranch and the ranch of W. T. Waggoner, my ranch being in Wichita county. This land covered the original

land I had leased and it went down on to Suggs' just a little space. I suppose there was about 20,000 acres down on the east end of the Suggs' original pasture. We had both been leasing a long time and Suggs went up to the Agency and represented to the Commissioner of Indian Affairs, Mr. Jones, that he had 25,000 cattle down there and that I had a large track of land and few cattle, while it turned out to be just the other way. I went up to the Agency to see about it and he said he had made up his mind to give Suggs 100,000 acres of my country. I told him, Colonel Randlett, of the Interior Department, who was down at Anardarko, I would not stand for it.

So I went on to Washington City. When I got there I found out what Suggs had represented. So I went and hunted up Senator Bailey and I took him up, and went up and Commissioner Jones explained it to him, and Senator Bailey said, it was not right; he knew Suggs and lived in his town, and he knew me. So the Commissioner said he could not do anything but he agreed with Senator Bailey that I was right about it. So we went over to see Secretary Hitchcock, Senator Bailey and I. We sat down there and talked with the Secretary about it, and, well, he said he did not like to interfere down there, something to that amount, and did not want to say whether he would do anything or would not do anything. So Senator Bailey just got up and told him—he said: "You take that country away from Burnett and I will see whether you damned Republicans up here can rob a Democrat." He says, "I will take it up in the Senate before you can do it. I know them both—Burnett and Suggs." And so that was the end of it and I went back home. Suggs was a Republican. Senator Bailey never represented Suggs that I know of.

I kept my 100,000 acres of land. I never loaned him a dollar. I endorsed a note for him once, but he did not know—I do not think he did—that I did that. [Then why did he do it?] I was in the Exchange Bank at Dallas one time [wonder what time], and Ferris said something about some money that Senator Bailey owed him, and he said he thought he would want to renew it. I told him it was good, I would endorse it for him if he wanted me to. I think he is plumb good and I will pay it if he don't."

I never heard of Suggs Brothers trying to beat me to Senator Bailey over this lease contract.

Yes, I knew Congressman Stevens from that district. I think there was a bill introduced in the Lower House affecting the Kiowa and Comanche Reservation but I do not remember who introduced it. At one time the cattle men had 1,300,000 acres of that land leased and I think about 500,000 acres were set aside for the use of the Indians as pasturage. I do not know about the Stephens' bill providing that 500,000 acres should be set aside up in Wichita Mountains, forty miles above my ranch instead of across the river from my ranch. I could not say about that, I do not remember. It is not true that I and others got Senator Bailey to so manipulate that

legislation as to throw that reservation right across the river from my ranch and that of Mr. Waggoner. That was done, you know, in Washington and I was not there and I do not know anything about it. *I had nothing to do with that part of the game.*

Q. You left that to your Washington representative, I suppose?

A. I did not have anything to do with it. I had nothing to do with that.

Senator Bailey [rising]: Mr. Chairman, I am not going to sit here and be insulted this way.

Chairman: Just sit down and keep quiet now. It is better for you and better for all of us. [This was one of the times that Mr. Bailey grew extremely angry and ferocious; so much so, in fact, as to threaten a scene before the Committee. If there was no basis for this question and this inquiry, why should he have lost his temper? It will be remembered that he never permitted, and the Committee would not require him, to submit to a cross-examination on all these matters, either by the proponent of the charges or his attorneys, although the Committee and Mr. Bailey's lawyers promised, when they refused to let him take the stand at the beginning of the investigation, that he would submit to a cross-examination before the investigation was closed.]

It would seem from Mr. Bailey's own testimony that the "fee, loan or gift" alleged in this charge should have read "endorsement," consequently the Suppression Committee found the charge untrue and that is similar to the reasoning which says the dead man was not killed with a pistol but with the bullet.

SUGG BROTHERS AND THE INDIAN TERRITORY LAND LEASES.

CHARGE NO. 38.

Charge No. 38 was as follows: "That about the year 1900, said J. W. Bailey represented Sugg Brothers, a firm composed of J. D. Sugg and E. C. Sugg, now deceased, before the Department of the Interior, in reference to the approval of leases for some Kiowa and Comanche lands which said Sugg Brothers were endeavoring to lease, and for such services said Sugg Brothers, or one of them, paid to said Bailey large sums of money by way of fees, loans or gifts."

The witness Bailey (continuing p. 905)—that is an unadulterated lie. I never had any business transaction with the Suggs in my life. I knew Cal Sugg well, and I knew that he had some lands under lease in the Indian Territory. The fact of it is he was very much at Gainesville. * * * That statement he had ever employed me is a downright and positive lie, and the statement he ever paid me five cents is a downright and positive lie. I never had but one business transaction with Mr. Sugg in my life. That involved probably four hundred and fifty or five hundred dollars. I swapped a couple of yearling colts once for some yearling steers, and the man with whom I

traded was to ship—I sold the steers to Sugg and the man with whom I traded was to send the steers to Sugg's ranch, to ship them there direct instead of shipping them to me. They were not to be delivered at that time, some different time of the year they wanted to be shipped, and when the time did come the man didn't keep his trade; he didn't take his colts nor deliver his cattle, and I returned Mr. Sugg the money. Now, the cattle that I was to receive was for two yearling colts. I know that they were worth somewhere between two and three hundred dollars, probably in the trade I charged him \$300 for them and I took steers in payment. That trade failed, and when it failed and the cattle were not shipped to Mr. Sugg, I afterwards returned him the money he had paid me, and that was the only transaction I ever had with him in my life, and the only dollar that ever passed between him and me in my life, or in his life.

It will be observed that Bailey starts out by swearing: "That is an unadulterated lie; I never had any business transaction with Sugg in my life," and afterwards winds up his testimony saying: "I never had but one business transaction with Mr. Sugg in my life, * * * I swapped a couple of yearling colts once for some yearling steers * * *" etc., ad infinitum. Bailey always conjured up a horse or a cattle trade or a loan or endorsement to explain his shady transactions.

The information upon which this charge was based was in writing, furnished the proponent of the charges by Honorable W. O. Davis, and was as follows: "Some time previous to this, there was some delay in the Interior Department in reference to the approval of the leases for some Kiowa and Comanche lands to Sugg Brothers for grazing purposes. Sugg Brothers had Bailey to intercede with the Interior Department, and the leases were approved. E. C. Sugg of the firm was in Gaineseville at the time, and the story goes, that he went to Clem Henniger, a tailor, and told him that when Bailey came home to make him the best suit of clothes in his shop. As Sugg left the shop, a Bank collector met him with a draft for Fourteen Hundred Dollars drawn on him by Bailey. Sugg paid the draft, but cancelled the order for the suit of clothes."

In this connection the following letter, dated El Paso, Texas, January 26, 1907, addressed to the proponent of the charges by a reliable citizen of that city is quite interesting: "Among the charges you have filed against Mr. Bailey I note one relative to money obtained from J. D. and E. C. Sugg. While a resident of San Angelo last fall, where J. D. Sugg resides, I was told by Mr. C. E. Hudson, a prominent merchant of that city, and a man of undoubted veracity, that before his death Cal Sugg related to him the details of the matter in which Bailey assisted him and that pending the negotiations for the lease of the Territory lands Bailey borrowed a large sum of money from Sugg giving him a mortgage on cattle represented to be located in the territory, that when the note fell due Sugg made an investigation and found that Bailey had no cattle nor had ever had any

in Indian Territory. He came to the conclusion that this was the method used to collect a fee for the services rendered and made no further effort to collect. I would respectfully suggest that both J. D. Sugg and C. E. Hudson, of San Angelo be summoned to testify as to this charge, as they can undoubtedly corroborate it as true. It is very apparent that Bailey's friends are attempting to foist a colossal whitewash upon the people, and unless those favoring the development of the whole truth exercise unceasing vigilance they will succeed. Gen. Crane or Senator Skinner will tell who and what I am."

Although the proponent of the charges asked that Mr. Hudson, and other prominent citizens of San Angelo be allowed to testify as to Cal Sugg's statement to them during his lifetime as to large sums of money paid to Bailey for practicing before the Interior Department, that request was refused. Mr. J. D. Sugg was summoned by the proponent of the charges but was sick at the time and could not come. Afterwards the proponent of the charges visited San Angelo and talked with him and while he was very loath to talk about the matter, in that it involved the participation by his deceased brother in this transaction, nevertheless he did admit to the author that Bailey did discharge a part, at least, of his indebtedness to the Sugg Brothers by "introducing" Cal Sugg to the heads of the Departments at Washington.

In this connection the proponent of the charges received a letter, dated San Angelo, Texas, February 26, 1907, from a prominent, well-to-do and absolutely reliable stockman and banker of that section, which is in part as follows: "I have heard Mr. J. D. Sugg make the statement that he and his brother Cal in looking over their papers found a \$7,000.00 note of Senator Bailey's, and that he suggested that Bailey was able to pay it and they ought to collect it, but his brother said, 'No, Bailey had done some work for them up yonder (meaning Washington) and that Bailey had never charged them anything for it, so they would burn up the note.' This was not told me confidentially, but stated before a crowd."

BAILEY BORROWS FROM RAILROAD PRESIDENT WHO SEEKS FAVORS FROM CONGRESS.

CHARGE NO. 39.

Charge Number 39 was as follows: "That about the year 189— Judge J. M. Lindsay, of Gainesville, Texas, was interested in a railroad enterprise known as the Gainesville, McAlester & St. Louis Railway Company, and it was necessary for said railroad company to obtain congressional authority for the right to construct through the Indian Territory, and it also desired to obtain from Congress an extension of the time in which to complete same. While said J. M. Lindsay was working in Washington, D. C., to procure said rights and looking after the interest of said enterprise and seeking said legislation at the hands of Congress, and while J. W. Bailey, as a mem-

ber of Congress, was assisting in procuring said legislation, said J. W. Bailey knowing the interest of said Lindsay in the enterprise, took advantage of the situation and procured a loan from said Lindsay of \$2,000, said Lindsay at that time not being in business of money lending, but being a heavy borrower of money, as was well known to said Bailey. Upon being called upon to repay said sum of money, which was evidenced by a note, said Bailey was indignant and repaid same under protest, thus evidencing the fact that he had regarded the advancement of said money as a gift or compensation rather than a loan to be repaid."

The witness Bailey (continuing p. 906)—

Q. What have you to say about that?

A. That is another downright and positive lie, and it is marvelous to me who could invent that. Nothing of the kind ever happened nor anything that could have been drafted into it. The fact of it is I did not owe \$2,000 to Judge Lindsay. I doubt if I ever owed his bank, because while he was connected with the old Gainesville National Bank, was at one time president of it, and is now president of the Lindsay National Bank, I doubt if I ever owed either of them exactly \$2,000 in my life, though I may have done it. * * * I took great pleasure in doing what I could, first to pass the original bill through Congress permitting the construction of it, and afterwards for two or three times to extend the time. I did with that bill what I had never seen done before in Congress, and I have never seen it done since, I passed that bill and the House took my word for the contents of it, and passed it without having it read. I never saw it done before or since. [So we have it once more from Mr. Bailey's own testimony, that he is a very remarkable man.] * * *

He [Lindsay] was formerly district judge there, he is a leading business man, a member of the Baptist church and is as highgrade a man as there is in Texas, and it is infamous that a man of that kind should be—and who has no interest in the politics of the State except as any other citizen may have—that he should be drawn up before the world and accused as a man who contrives to corrupt or attempts to corrupt a public servant. [This charge was not directed at Judge Lindsay but is simply to the effect that Bailey "took advantage of the situation and procured a loan from said Lindsay; * * * that upon being called upon to repay said sum of money * * * said Bailey was indignant and paid same under protest, thus evidencing the fact that he (Bailey) had regarded the advancement of said money as a gift or compensation rather than a loan to be repaid." Judge Lindsay's motive may have been of the best while Bailey's may have been of the worst.]

The written information upon which the foregoing charge was based was furnished the writer by Hon. W. O. Davis of Mr. Bailey's home city and was as follows: "Judge J. M. Lindsay, as were the citizens of Gainesville in general, was interested in a railroad enterprise, known as the Gainesville, McAlester & St. Louis Ry. Co. It

was necessary to obtain congressional authority for the right to build, and also to obtain an extension of time. Judge Lindsay, while Mr. Bailey was a member of Congress, went to Washington and remained quite awhile, looking after the interests of the enterprise and seeking the necessary legislation. Judge Lindsay at that time was not loaning money, but was a heavy borrower. Mr. Bailey took advantage of the situation and obtained Two Thousand Dollars from Judge Lindsay, but Judge Lindsay took his note for the money and afterwards made Bailey pay it, but over Bailey's indignant protest. Judge Lindsay, strange to say, is now posing as a supporter of Bailey.

J. M. LINDSAY, PRESIDENT GAINESVILLE, MCALESTER & ST. LOUIS RAILWAY COMPANY, TESTIFIES ABOUT LOANS AND ENDORSEMENTS TO BAILEY.

Mr. J. M. Lindsay, a voluntary witness for Mr. Bailey and a very partisan one who like John D. Johnson and others, had a poor memory, but was forced nevertheless to testify (Bailey Invest. Com. Report, 1907, page 409-413) in part as follows:

About the year 1893 I was interested (as president) in a railroad enterprise known as the Gainesville, McAlester & St. Louis Railway Company, and it became necessary to obtain congressional authority for the right to construct through the Indian Territory and to obtain an extension of time in which to complete the enterprise. That was about the winter of 1892 or 1893. Senator Bailey [then Congressman Bailey] introduced the bill and had it passed.

I don't think he had much means or much money at that time. I don't remember ever to have loaned him any money in Washington City. Yes, sir, I endorsed a note for Senator Bailey at one time, I think it was along about 1895.

It became necessary to extend the original charter or franchise within about three years; in 1896. Yes, sir, I was in Washington in 1898-99, anticipating there would be a necessity for another extension, and Senator Bailey had a bill passed extending it three years from 1899.

It was at no bank at all that I endorsed the \$1,000 note. It was Captain Daugherty, F. M. Daugherty, and all the citizens of Gainesville. [This shows very conclusively that Mr. Bailey was in sore straits prior to the time he met "My dear Pierce."] That was about 1895. Well, they hadn't—the road hadn't been constructed, no. The bulk of the note, as I remember it, was paid by Mr. Bailey by warrants drawn on the seargent-at-arms. There was a small portion of it I recollect I paid and carried for a time. [Ex-Senator W. O. Davis is the authority for the statement that it was a notorious fact that when Judge Lindsay required Mr. Bailey to pay back these loans, Bailey became very indignant at the imposition, taking the position subrosa, at least, that he had earned this money. It is due Mr. Bailey to say that Judge Lindsay denied this. Lindsay, however, impressed the author as a very secretive and unreliable witness.]

Yes, sir, I have been a right active supporter of Mr. Bailey in this matter. [He was on the platform at the Houston debate.] I have been in full sympathy with Mr. Bailey on this issue because I felt absolutely sure he was right and being persecuted, viciously persecuted. [What a pity!]

BAILEY IN IMPECUNIOUS CIRCUMSTANCES BEFORE ENTERING THE SENATE.

I was president of the corporation. I could not approximate the numbers, the dates, and amounts of the respective loans made him from 1893-1899. I don't think he was the owner of much means at that time. I could not say as a matter of fact whether he was insolvent or not. I don't know about his having settled any debt at less than dollar for dollar. As to his dealings with other people and his conditions personally, I didn't know anything about it. I don't know anything about his having settled part of his debts in Cooke county for thirty cents on the dollar.

Mr. Odell—Wait a minute, Mr. Lindsay. This witness has already stated he knew nothing about the debts Senator Bailey had. I want this record to show, after he was answered, he deliberately asks if he knew anything about his settling debts at thirty cents on the dollar. I want it stricken out, and want it to state he had no proof.

The Chairman—I think it is irrelevant testimony, and I will protect you gentlemen. The witness stated fully he knew nothing about it.

Mr. Cocke—Will you permit me to make a statement?

The Chairman—If you desire to make a statement you can do so.

Mr. Cocke—I want to state what I conceive to be a proper subject of inquiry, the fact as to the utter insolvency at the time Mr. Bailey went into the Senate, and I expect to prove that Mr. Bailey at this time has property in Cooke county, if the Committee will permit it, exceeding in value two hundred thousand dollars.

The Chairman—Can you prove that by this witness?

Mr. Cocke—I don't know, sir, I was told I could. I was told by a reputable citizen of Gainesville. I am asking what he knows of his property now.

Mr. Odell—That wasn't the objection. The question you asked him, if he knew anything about his being insolvent and settling his debts, and he stated he did not.

BAILEY GROWS RICH IN THE SENATE.

The witness Lindsay:

I know that he has several store-houses and some land north of Gainesville.

Yes, sir, I know about his ownership of the D. T. Lacy building on the north side of California Street, according to the prints
Acquired in 1906.

\$8,500

I understand that he owns the R. S. Rose building on the north side of California Street, acquired a few months ago	\$7,000
I saw it stated that he owend the Pierre Davis building on California Street	\$4,000
I understand also that he bought the Potter building on the north side of California Street, last year	\$8,500
I understood that he bought two buildings on the south side (Lassita building) a few months ago, at	\$10,000
Yes, sir; I understand he owns the Red River National Bank building, bought two or three years ago, 1904	\$6,000
Yes, sir; I understood that he bought the Bowmer property on California Street. However, I don't know the price	[\$3,500]
I know about the lot back of his residence on Davis Street	\$7,000
I don't know about his ownership of the 1,000 acres at \$50.00 per acre, but he has a block of land north of Gainesville a mile and a half	[\$50,000]
He has some barns on it. Land in that neighborhood is worth \$40.00 to \$50.00.	
I don't know anything about a loan made to Wheeler & James of forty thousand dollars	[\$40,000]
I understand he made a loan to Pierre Davis on the Lindsay National Bank building at \$2,000.	\$2,000
I do not know anything about a loan to W. W. Howard [Real property purchased in and near Lexington, Ky., since March 1st, 1902, less sales, as per exhibit herein-after set out	[\$4,000] \$125,000]

BAILEY DEBAUCHES SOUTHERN STANDARDS OF STATESMANSHIP AT
CLEBURNE, TEXAS, OCTOBER 15, 1906.

(Galveston News, Oct. 16, 1906.)

This celebrated egomaniac gave expression to the following remarkable language: "In all the long and glorious history of our own and of other Southern States, there never lived and served a man whose record is as much above suspicion of unselfish men as mine; * * * They have never been able to discover even one mistake. Is it not marvelous that in a State like ours a man whose record is as stainless as mine has always been, can be pursued as they have pursued me? * * * My name is indissolubly connected with the name of the State of Texas."

Apologizing for the profanation, by comparison of Bailey with our revered Southern dead, let us nevertheless draw some useful lessons by said comparison.

Mr. Bailey's salary has been since he entered the Senate until the year 1908, \$5,000—where did he get the above listed property? To the

Investigation Committee of 1901 he said: "Knowing that, as an honest man, I could make nothing in the public service, my only hope of a modest competence to protect me against an old age of poverty and want is that I could find some transaction like this, and by careful management save something out of it." "The empty meal barrel" about which Bailey spoke in his campaign against Chilton, seems to have become comfortably filled, at the loss, however, of the confidence and esteem and admiration of the people. The scorn with which John C. Calhoun declined a needed loan, because he suspected the motives of the would be lenders, or desired to avoid even the appearance of evil, is in marked contrast to Mr. Bailey's attitude and conduct.

Let us recall also the splendid dignity and manly independence of Robert E. Lee who, broken by the fortunes of war, with the hopes of the future all but blasted, declined to accept the presidency, shortly after the Civil War had closed, of a Life Insurance Company at a salary of \$30,000 per annum, because Lee thought too highly of his untarnished name to sell its influence, although at that time he held no public office and owed to the people as a private citizen only the lofty duty of heroic self-sacrifice that no shadow should pass across the pathway of a man that the Southern people loved so well.

In this connection we should, in these times of greed and graft, all remember the language of Thomas Jefferson, the immortal founder of Democracy, when he said: "Never will I engage, while in public office, in any kind of enterprise for the improvement of my fortune, nor wear any other character than that of a farmer."

The man who enters or remains in the public service, expecting to become rich, had better, perhaps, never been born. Such expectation will either be disappointed, or gratified, if at all, at the expense of the people. A man in public life, or occupying a trust relation in private life, has a right, nay even it is his duty, to suspect the good faith of any proposed employment, favor or compensation, coming from those who seek or who are in a position to profit by his official conduct. Honest people make no such advances. This is fundamental, and, although it may be homely honesty, it is honesty just the same. It will not do for the public official to say that he is above the lusts, the avarice, and the temptations, of his fellow men. In so saying he does himself an injustice, no less than the people he thus misrepresents.

CHARGE NO. 40.

Charge Number 40 was as follows: "That in the spring of 1893 Hon. C. B. Stuart, of Gainesville, Texas, a former law partner of said J. W. Bailey, was appointed a judge of the United States Court for the Indian Territory, and appointed J. W. Phillips, of Gainesville, Texas, to whom Bailey owed considerable sums of money, as clerk of said court; that the compensation of said Phillips as clerk was on a salary basis. under the law as it then existed. Said J. W. Bailey, at

said time, being a member of the Judiciary Committee of the House of Representatives of the United States Congress, procured the passage of an act, that was approved November 3, 1893, U. S. Statutes at Large, Vol. 28, which put said clerkship on a fee basis and increased the compensation of the office of the clerk to the sum of, to wit, about twenty-five thousand dollars per year, and thereafter, during the lifetime of said Phillips, now deceased, and during the incumbency of said office, said Bailey procured large sums of money from time to time from said Phillips as compensation, gifts or loans in return for his said services in the premises aforesaid."

The information upon which the above charge was based was furnished the proponent of the charges, in writing, by Senator Davis of Gainesville, Texas, and was as follows: "In the spring of 1893, in the beginning of Cleveland's second term, C. B. Stuart of Gainesville, the former law partner of Bailey, was appointed Judge of the United States Court for the Indian Territory. Stuart now resides at South McAlester. Stuart appointed J. W. Phillips of Gainesville, Texas, Clerk of said Court. Phillips was a supporter of Bailey. Bailey owed Phillips considerable money. Phillips' salary as Clerk at the time of his appointment was the same as that of an ordinary United States Circuit Court Clerk. Bailey was a member of the Judiciary Committee of the House, and he procured the passage of the act that was approved November 3, 1893, United States Statutes at large, Volume 28, page 9, which increased the compensation of the Clerk to about Twenty-Five Thousand per annum, making it one of the best paying offices in the Government. It will be seen from U. S. Statutes at large, Volume 28, page 695, that someone has closely watched after the interests of this Clerk. Now it is generally understood that during Phillips' incumbency of the office, Bailey drew on him from time to time. C. B. Stuart was on intimate terms with Phillips and doubtless could tell much about this. The above charge and the following one will be considered together. (See p. 313.)

HON. W. O. DAVIS, EX-STATE SENATOR FROM GAINESVILLE, BAILEY'S HOME, TESTIFIES.

Hon. W. O. Davis, a witness for the complainant, testified (Bailey Invest. Com. Report, 1907, p. 509-514) as follows:

I have lived in Gainesville since July, 1870, and have known Mr. Bailey since his residence here. I knew Mr. Phillips quite well while he was clerk of the court. About all I knew of the monetary dealings between Mr. Bailey and Mr. Phillips, that is my own personal knowledge, is this: In the spring of 1894, Davis & Garnett had a vendor's lien note against Mr. Bailey. It was turned over to us by J. W. Downer. The note was past due for a thousand dollars. I wrote Mr. Bailey at Washington about it. He did not answer. On the 28th of May I filed suit on the note. Along about the first of September, J. W. Phillips came up into the office to see me about it. J. W. Phillips was the clerk at that time of the Federal District in the Indian

Territory. *He said he wanted to pay Mr. Bailey out of debt and talked to me about the matter. On the 4th of September Mr. Phillips paid me the amount due on the note—gave me a check for it. C. B. Stuart, Mr. Bailey's ex-partner, appointed him clerk. I know from the public prints the part Mr. Bailey took in the legislation which created the office and fixed the salary. Mr. Bailey was a member of the Judiciary Committee of the House. The office was worth at first what the ordinary United States Circuit Clerk's office is worth—a salary of \$3,500, and all above that went to the government * * * a bill was passed giving him these fees in addition. That was while Mr. Bailey was a member of the Judiciary Committee. That made the office worth about \$25,000.*

Q. Had you seen at that time these supplemental charges down here filed by Cocke?

A. I saw what was published in the paper.

Q. Yes, sir; did you prepare any of them?

A. No; I didn't prepare any of them.

Q. Did you go over them before they were filed?

A. No, sir.

Q. Did you ever see them before they were filed?

A. No, sir.

Q. Did you write any letters about them before they were filed?

A. I expect I furnished Mr. Cocke the data upon which some of them were based.

Q. I thought so—

A. But they are not in the language in which I furnished it, and I never have seen Mr. Cocke; I never knew Mr. Cocke at all; I never saw him to know him until I saw him here.

On the Hall charge Hon. W. O. Davis of Gainesville, Texas, testified or rather was not permitted to testify (Committee Report p. 510) as follows:

There was F. J. Hall and Buck Sparks and John W. Little, was my understanding, had a contract to furnish some heifers to the United States government. The First National Bank furnished the money to buy the heifers. I know this, that there was some delay about collecting the receipts for the cattle. All I know about Mr. Hall's employment of Mr. Bailey was the general talk and what Mr. Lacey, the president of the bank, told me about that. Mr. Lacy told me at that time—

Mr. Odell—We object to what Lacy told him, your honor.

The Chairman—That will be excluded as heresay.

John W. Little lives at Chickasha, and my information is that after the money came—

Mr. Odell—We object to what his information was.

[Mr. Davis' information, and there is no doubt in the author's mind but what it was absolutely correct, was to the effect that Hall paid Bailey \$500.00 for his work before the Department in getting the Government to make payment to Hall for the heifers.]

BAILEY INSOLVENT UNTIL 1899, BUT INDEPENDENT NOW.

Ex-State Senator W. O. Davis, of Gainesville, Texas, testified (pp. 510-513) as follows:

In 1895 Mr. Bailey was insolvent, as far as I could judge. I had some judgments against him for clients and I could not find anything. I had execution issued. In 1896 and 1897 he was still insolvent. In 1899 he was. I say it because I had some judgments against him; I had the judgments against him in 1899, for A. A. Green, of Dallas, Texas, amounting to \$3,710. He got \$1,500.

The Chairman—You don't know?

A. No, sir; nothing except what Mr. Green told me.

Mr. Odell—We ask that that be stricken out.

Mr. Chairman—Mr. Clerk, if you have got that last remark, cut it out of the record.

Mr. Cocke—Has he cut out anything that Mr. Green said?

The Chairman—He stated what he understood from Mr. Green. [The proponent of the charges afterwards brought Mr. Green, a reputable business man of Dallas, before the Committee and had him in the room present and the Committee refused to allow him to testify. They would not allow Davis to testify to what Green had told him and would not allow Green to testify to the facts of his own personal knowledge and such is the way of the whitewashers.]

The witness—Yes, sir; R. F. Scott had judgments against Mr. Bailey and Mr. Bailey paid them about three years ago; *about the time he began to buy property there, in 1903.*

I expect I can give a list of his property there situated in Gainesville, for I see it every day nearly:

D. T. Lacy building, bought in 1905,	\$8,500
A. S. Rose building, bought in 1906,	7,500
Pierre-Davis building, bought in 1906,	4,000
F. A. Tyler building, bought in 1905,	10,000
F. A. Potter building, bought in 1907,	8,500
Lassita building, bought in 1906,	10,000
Red River National Bank building, bought in 1904	6,500
Bowmer property, bought in 1906,	3,500
Lot on Denver Street, bought 1907,	2,500
Ed Bowmer property, Davidson and Dodson Streets	7,000
Chapman Place, 2,000 acres at \$60,	120,000
1,000 acres, sundry,	60,000
Whitley & Jones loan,	40,000
Loan against Lindsay National Bank (about)	15,000

Total Cooke County Property\$285,000

Kentucky real estate and horses, (purchased since March, 1902, as per list hereinafter set out under Standard Oil Exhibits,	\$184,251.18
Gibbs Dallas County Ranch, unsold portion,	50,000.00
Stock in Ft. Worth Record (Editor Ousley Refused to testify as to who owned the balance—perhaps Standard Oil?)	10,000.00
Prospective fee on sale of Tennessee Railway properties, estimated, (Bailey refused to testify how much this fee was to be, saying it was no business of the people of Texas)	500,000.00
Grand total of visible property, accumulated in first six years of his Senatorship,	\$1,029,251.18

And yet four out of seven of the Whitewash Committee found their Master guiltless of the charge of having been insolvent when he entered the Senate and of having grown rich therein!

After Hon. W. O. Davis had concluded his testimony before the Committee he visited Ardmore in connection with Phillips' fee matter and upon his return from there, furnished the proponent of the charges the following memorandum of facts: "While Phillips was Clerk, he kept his account with the City National Bank of Ardmore, of which Don Lacy was then Cashier, but is now President. Bailey drew drafts with considerable regularity upon Phillips, and these drafts came through the City National Bank and were collected by the Bank. When Phillips died, he had a box or drawer in the Bank containing his papers, and the officers of the Bank went through the papers with the widow. There were among the papers quite a number of drafts drawn by Bailey on Phillips, stamped paid, and also several notes from Bailey to Phillips. These papers are not now in the Bank, but are probably in the possession of the widow, Mrs. J. W. Phillips, who lives at Oklahoma City. The officers of the Bank are perfectly reliable, and can be depended upon to testify to the truth. The Andersons are officers of the First National Bank of Ardmore. Phillips did not keep his account there, and they do not know a great deal in reference to his business."

In transmitting this statement of facts Senator Davis took occasion to write the author as follows, under date of February 13, 1907; "In order that you may fully understand the J. W. Phillips matter the law increasing his fee, was approved November 3, 1893, U. S. Statutes at large, volume 28, page 9. The entire Indian Territory at that time constituted one District, and C. B. Stuart was Judge and J. W. Phillips, Clerk. On the 1st of March, 1895, the Indian Territory was divided into three Districts, the Northern, Central and Southern, U. S. Statutes at large, volume 28, page 693. The second section, page 695, provides that the then Clerk, who was J. W. Phillips, should be Clerk for the Southern District, and the same act provided that the then Judge, who was C. B. Stuart, would be Judge of

the Central District. It will be seen that Phillips was legislated upon the Judge of the second District, and Stuart was allowed to appoint a new Clerk for the Central District.

"As I have before explained to you, J. W. Phillips, while Clerk, kept his account with the City National Bank of Ardmore, and the officers of that Bank and Mrs. J. W. Phillips, who now lives at Oklahoma City, are about the only persons I know of who could furnish evidence of much value. There are other witnesses who ought to know, but they cannot be depended upon. The situation is about this, as you doubtless fully realize: J. W. Bailey is an arrogant, vindictive political boss, with some unscrupulous followers, who will not only excuse anything he may do, but will lie for him and do his bidding. It requires men of more than the average courage and convictions of duty to speak out and voluntarily tell what they know.

"The methods pursued by the Committee have a tendency to suppress the truth. Bailey and his followers are given a chance to run the witnesses down and corrupt, intimidate or browbeat them.

"Don Lacy is a reliable man and will testify as I wrote you. I see, however, from today's Dallas News that the Bailey crowd has been rounding him up."

Bailey's four members of the Committee reported on charge No. 40 as follows: "We find, and the Committee regards, this charge as immaterial and make no findings thereon." In other words, it made no difference to the majority of that Committee whether Bailey had been grafting in the Indian Territory or not. The fact that they declined to say the charge was not true, ought to convince even Bailey partisans that the facts alleged were true.

INDIAN TERRITORY CATTLE RESERVATION.

CHARGE NO. 41.

Charge number 41 was as follows: "That during the year 1903 certain stockmen who were leasing lands in the Kiowa and Comanche Reservations in the Indian Territory were ordered by the Department of the Interior to remove their stock from said reservation by the 1st day of May, 1903; that said order caused said stockmen great apprehension and probable loss; that thereupon said stockmen contributed large sums of money to secure a modification of said order and an extension of time until July 1, 1903; that they procured said Bailey to represent them before the Department of the Interior, both before the Secretary of said Department, and on appeal to the President; that large sums of money were paid to the said Bailey for said services so rendered, or as gratuities or loans."

The witness Bailey (continuing p. 907)—There is not a syllable of truth in it. * * * It involves the same transaction I detailed while ago with reference to the Burnett charge.

The information upon which the foregoing charge was based by the proponent of the charges, was in writing and furnished by Hon.

W. O. Davis of Gainesville, Texas, was as follows: "During the spring of 1903, with a view to the opening up of the Kiowa and Comanche country for settlement, the cattle men were ordered by the Interior Department to remove their stock from the country by the 1st of May. The stock men contended that this was too early for the removal of their cattle, without great loss. They made up quite a large sum of money, and Bailey was employed to represent them before the Interior Department, and procure an extension of the time until July 1st. Bailey appeared before the Interior Department, but was overruled by Hitchcock, the Secretary of the Interior. Bailey then appealed from Hitchcock to the President, and the President granted the extension. The cattle men made up quite a large sum of money which was sent to Washington, and Bailey doubtless received the greater portion of it."

While at San Angelo the author learned from citizens there that the sum of money referred to by Mr. Davis was in fact made up and forwarded to Washington for the use, benefit and behoof of the "traitors of the Senate" through some confidential source.

In this connection the following signed letters to the proponent of the charges, while the Suppression was in progress before the Committee in January and February, 1907, are of interest.

"ABILENE, TEXAS, March 11, 1907:

"During the Bailey investigation I noticed in the paper that you received a letter from Mr. Frank Kell stating that there was no grounds for the charge that Senator Bailey received money for the services he rendered the cattle men in keeping the Comanche Reservation from opening four years before it did.

"A few days ago I met Mr. J. J. Kendrick, formerly of Clifton, Bosque county, Texas, but now of Gomez, Terry county, Texas. Mr. Kendrick stated to me that he and his brother and some other parties were in Mr. Jeff Gibb's office, at Clifton, Texas, of the firm of Kell and Gibbs who were engaged in the cattle business in the Indian Territory at the time that the opening up of this domain was deferred. Mr. Gibbs stated to these gentlemen that Senator Bailey used his influence in keeping said domain from being opened up and for said influence Bailey received a portion of a fund made up by all the cattle men interested. Mr. Jeff Gibbs stated that Kell & Gibbs gave \$500.00 as their part to this fund and it was Mr. Gibbs' understanding that it was to go to Senator Bailey as compensation for the valuable services rendered. Mr. J. J. Kendrick, and also his brother, stated that they could give time and place and could furnish the names of the other parties present.

"If you will write to Messrs. Kendrick Bros., of J. J. Kendrick of Gomaz, Texas, he or they will no doubt give you some very valuable information on this point. I think if you were to one time get the 'king of Boodlers' before a court where he would not be judge, jury and counsel and prisoner all in one, you would be taking a long step

in the direction of law enforcement. Wishing you success in your undertaking, I am very respectfully."

A letter from Mr. J. J. Kendrick, the gentleman referred to in the above letter, dated Gomaz, Texas, March 21, 1907, confirms the correctness of the conversations referred to in the foregoing letter.

Here follows another signed letter to the proponent of the charges on the same subject, dated Vernon, Texas, January 26, 1907. "I was informed by ——— of Oklahoma City, who is a prominent banker of that town, that he knew that Senator Bailey received \$5,000.00, as a fee from the cattle men, to detain the opening of the Oklahoma Country. ——— is a prominent Banker of Oklahoma City and can possibly give you valuable information on this matter; he also told me that Mr. Bailey fought them on their Statehood matters and deferred that matter all he could. —

"I hope your efforts will receive their just reward."

It should be remembered that all these letters voluntarily reached the proponent of the charges from wholly disinterested citizens, at widely separate points and without any knowledge on the part of either of the facts stated by the others. For example here is another letter dated Henrietta, Texas, January 25, 1907, bearing on these same facts. All of which facts Bailey designated as being without a syllable of truth. The Henrietta letter just alluded to, is as follows: "I see in your supplemental charges that you are getting down close to some facts on Senator Bailey. Up to 1899, there were about three million acres of land known in the Territory as 'The Kiowa and Comanche Reservation' and lying just north of the Counties of Clay, Wichita and Wilbarger. Repeated efforts had been made for six years to have congress open this up to settlement. In the mean time, it was being used by certain cattlemen to graze their cattle upon. In the spring of 1898, Jno. Stephens, Member of Congress from this District, had a bill passed in the lower House of Congress and had it sent over to the Senate of the U. S. In the month of December, 1898, he withdrew it from the Senate, or else introduced another one in the House amending the one in the Senate, so as to obviate the objections of the Senate Committee on Indian Affairs. He did this, mark you, in December, 1898, and the Records at Washington will show this to be an absolute fact, and Mr. Stephens will also testify to it. Now, hereby hangs a tale. In the winter of 1899, this bill went to the Senate after having passed the House in its amended form, and the cattlemen became frightened and alarmed. They hurried to Washington and employed Mr. Bailey, so I have been informed by one of the witnesses herein-after given you. What was the result? In the amended bill introduced by Stephens in December, 1898, there was a provision to reserve a pasture for the Indians containing 500,000 acres of land, which was situated by metes and bounds in the Wichita Mountains, at least 40 miles north of Red River; thus leaving the lands along the Red River to be opened up for settlement. After the employment of Bailey, all

of this was changed, and the pasture reserve of 500,000 acres was placed along the border of Red River so as to be opposite the Texas Ranches of S. B. Burnett and W. T. Waggoner; each of the latter named parties had ranches on the bank of the Red River in Wichita County, and they kept possession of most of said pasture reserve last described until about 18 months ago; thus securing to themselves a very valuable pasture opposite their ranches in Texas for at least six years. Now, in the bill introduced by Stephens in the House, there was a further provision that this 500,000 acre pasture reserve should not be opened to settlement, and should not be leased by any White man, but that it should be the grazing grounds of the Indians alone. Is it any wonder then, that in 1903, S. B. Burnett applied to Bailey to prevent his cattle from being excluded from said pasture on the order of the Secretary of the Interior? It is reported from good authority and generally believed that Burnett has loaned Bailey money on several occasions."

The finding of the four Bailey partisans of the Suppression Committee on the above charge was as follows: "We find, and the Committee regards, this charge as immaterial and makes no findings thereon." (Bailey Investigation Committee Report, 1907, p. 1072). *This amounts to an admission of the facts as charged.*

FEDERAL CLERKSHIP GRAFT.

CHARGE NO. 42.

The 42nd charge read as follows: "That during his official career in Congress, the said J. W. Bailey either accepted a fee or a loan or a gift of a fund raised by Federal employes in the Indian Territory in consideration or in recognition of the official and political services of the said J. W. Bailey in the matter of the passage of a 'Federal Court Fee Bill' through Congress, affecting said employes and officials of the Indian Territory."

The witness Bailey (continuing p. 901)—

The only other bill which I recall having been passed by Congress while I was a member of it in which I took any part at all, was a bill concerning the fees of the clerk or clerks, I believe there was only one clerk then, of the United States Court in the Indian Territory. The clerk acted in a dual capacity of a clerk of the court of the United States and also as a clerk of the county or State court; in other words, the clerk of the court there performed all the duties pertaining to the court and then performed such duties as in the States are performed by the county clerks, recording mortgages and issuing marriage licenses and other services of that kind. The clerks who had held that office prior to this time had kept the fees arising from these services such as are performed by the clerks of county courts in the State, in our State, and there was no question about it on the part of the government. There arose, as I remember, some friction between the clerk and the United States attorney there about it. My

old law partner was judge of the court and he talked with me about it, and said he didn't think there was any question in the law as it stood at that time.

Q. Your old law partner, Judge Stuart?

A. Judge Charles B. Stuart, who is one of the best lawyers I ever knew in my life, didn't think there was any question at that time about the right of the clerk to these fees, but the clerk was a very devoted friend of mine, was one of the very first men I ever met when I came to Texas and to the day of his death I did not have a more devoted friend nor was there a man to whom I was more sincerely attached. In order to make it possible that there should be no grounds for friction between the attorney's office and the clerk's office, Judge Stuart recommended to me that the matter be made certain by statute. * * * It was passed through the House absolutely without objection, and the committee does not need even those circumstances to show the committee it was a proper measure, when the committee reflects that the clerk of the court of the Indian Territory in addition to his duties as clerk of the court performed these other various services. The committee will readily agree that having received the same pay for the service as clerk of the United States court that other clerks received, he was then entitled, if he performed services that they did not perform, to pay for those services which the other clerks did not perform and for which they would not receive pay.

I had many business transactions with Mr. Philips in his time and mine. He, as I said a moment ago, was one of the first friends, indeed, he was the first man living at Gainesville that I met when I came to Texas. The night before I reached Gainesville I spent the night at Sherman, and Joe Philips, I met him there and he was the first Gainesville man that I knew when I came to Texas. * * * If he had been an educated man he would have been a remarkable one. He had brain enough to be the Governor of Texas, and talk about him having influenced anyone in their official relations would not be indulged very long if he were living. That man Davis that the committee saw sit there and hang his head like a dog [This is the unkind thrust that called for Senator Davis' very scathing reply on the subject of a "high head" hereinbefore set out.] when he testified would no more have made that statement in Philips' lifetime, but he made that like he makes a great many other things that he does, behind men's backs, that he doesn't do to their face. [If all of this was true why did Bailey not acquiesce in the effort of the proponent of the charges to have the sub-committee, as it was to pass through the Indian Territory, go to the bank officials who knew the facts and make an effort to examine Bailey's canceled drafts on Philips and the notes that Philips had paid for him?]

EX-UNITED STATES MARSHAL WILLIAMS TESTIFIES.

Mr. J. S. (Sheb) Williams was sworn and testified in substance as follows (pages 158-161, Bailey Investigation Committee Report) :

I was United States Marshal for the Eastern District of Texas that had jurisdiction over the Indian Territory—that was during the last Cleveland administration. I was in Washington with reference to a Federal Fee Bill in 1895, I think. Of course I saw Mr. Bailey every day repeatedly and I suppose that matter was discussed between him and myself. He was then in Congress.

I made Mr. Bailey a loan, I think in 1893. I don't remember when it was paid. In one instance it was as much as \$3,000. I don't recollect when the other loans or endorsements were made. We had transactions with ourselves and some loans and some endorsements, I could not recollect the date, but it was prior to all this, to my being Marshal. I think I was appointed on the 3rd day of January, 1894. Yes, I remember making an endorsement for him for a loan for a party in Paris, from one Mr. Aiken, I don't recollect when that was paid.

I do remember Mr. Connor was the attorney who attended to all the business for Col. Aiken, and I remember being called in by him into their office, in which they said that Mr. Bailey had not met this and it had to be paid, and I possibly wrote him a letter and they may have sent it, I don't know.

Q. Did you ever write a letter in which you told Senator Bailey anything with reference to your knowledge of his connection with any affairs in the Indian Territory?

A. I would like for you to explain; I don't understand you.

Q. Well, did you ever write a letter of that kind, in which you referred to your knowledge of his connection with any affairs in the Indian Territory?

A. I certainly did not, because if he ever was engaged in the Territory in any business whatever—

Q. You never knew of his being connected with any legislation up there while a member of Congress?

A. O, as to special legislation; I know he must have been interested in a way in taking from our court its jurisdiction over there, as a member of Congress. As I stated, a while ago, I think it was Mr. Little's bill, maybe a bill agreed upon, and I think it was, between Mr. Little of Arkansas and Mr. Culberson of our State. [This witness was put on the stand by the Committee over the protest of the proponent of the charges and his attorney, because we were not ready just at that time, to cross-examine him for the reason that we were expecting more definite information from some attorneys in Paris, Texas, who were said to have read a threatening letter written by the witness, Williams, to Bailey. Threatening to expose Bailey's grafting in the Indian Territory unless Bailey should pay the Aiken note, upon which Williams was the endorser.]

At the time I wrote the letter from Paris, Texas, to Mr. Bailey, I had not paid the note. [The Aiken note.]

BAILEY ADMITS TRUTH OF FACTS INVOLVED IN CHARGES ABOUT PRACTICING BEFORE THE DEPARTMENTS, BUT DENIES CONCLUSIONS SOUGHT TO BE DRAWN THEREFROM.

The witness Bailey (on cross-examination, p. 975)—

Q. Now, then, Senator, with reference to these charges that have been made of your services, your assistance to the various parties named in these charges, while all these services were rendered gratuitously and in the proper line of your duty as a representative as you understand it, is it a fact that in each of these instances these parties either had loaned you, have loaned you money at some time or endorsed your note?

A. No; it is not a fact. They have picked out men who were my friends.

Q. I mean the particular men who are mentioned in these charges.

A. That is what I say, they have picked out the men who were my friends, and I think they have picked out every man for whom I ever did a service, these particular friends of mine, except Jot Gunter. * * *

Q. Well, all the men they have picked out had something to do with the department?

A. Yes, sir; that is the infamous part of it, that they would go around and pick out the friends with whom I had dealt, and hundreds of men for whom I did similar services, they didn't say anything about. That is an infamous lie they put in here. They have telegraphed all over this State. I know within the last few days a telegram that has been sent down in my old Congressional district asking men to bring letters here, as if I had been writing something wrong, and this State has been scoured for every instance like this, and honorable men dragged up here and charged with having sought to corrupt a public servant. [It was a remarkable fact that the proponent of the charges could not send a telegram out of Austin while the suppression committee was in session, without Bailey immediately getting a copy thereof. Such was his hold on this public service corporation. The particular telegram to which he refers above, was sent by the proponent of the charges to a man in Collin county who had possession of certain letters from Bailey to a third person wherein Bailey offered to "loan" this third person, an intense Bailey partisan, money with which to pay his campaign expenses if he would run for the Texas legislature that was to re-elect Bailey to the U. S. Senate.]

Q. Well, that applies to all they have picked out, don't it?

A. Most every one except—it applies to all I have had close personal and friendly relations with—every one of these men they have picked out, and at some time or another I have had some business transaction.

During the Crane-Bailey Houston Debate, October 6, 1906, Bailey said: "I never in my life took a fee to appear before any Legisla-

ture or Assembly or before any Department of this Government from the Federal courts down; never in my life did I appear before any of them. I practice law, not influence. They can not buy my influence, but they have paid me for my law." In other words, he practiced his so-called "law" for fees and practiced "influence" for "his picked personal friends" for loans, endorsements and various and sundry other favors. One great trouble with Bailey is and always has been, that he seems to have had no perception of the finer sensibilities that would cause a truly patriotic, upright servant to avoid putting himself under obligations to those who sought to use him. It is very evident that he never read or practiced the truism that a man should avoid "even the appearance of evil." In the Houston debate Bailey also said, "They say a man can not be an honest Senator and practice the honest profession of law at the same time. I agree with them that the rule applies to themselves but it does not apply to me. * * * Of course, I wouldn't advise a man weak enough to fall to try to learn anything or from him [Kirby]." Of course Bailey was not "weak enough" to fall.

BAILEY NOT WANTED IN OKLAHOMA.

Although Mr. Bailey, in one of his speeches to the 30th Legislature, boasted that, if the people of Texas no longer desired his services as their Senator, there were a number of States in the Union the people of which would be glad to so honor him, referring especially to Oklahoma as one such constituency. It is very significant, however, during the political campaign of 1907, when Oklahoma's Constitution was being debated, and the balance of political power uncertain, that William J. Bryan was invited into that section—but *J. W. Bailey made no speeches there*. No wonder the people of Oklahoma distrusted Bailey, not only for his general course of misconduct, but, for the particular reason also, that he always opposed joint statehood. For many years it was his alleged desire to see two states formed instead of one. Bailey's departmental practice and the public sentiment in these territories since, however, has indicated that Bailey's real objection to Statehood was on account of the injury that would follow to *Bailey's wealthy cattlemen clients, such as Suggs, Burnett, et al.*

In this connection, it will be recalled that as late as February 7, 1905, Bailey made a speech in the United States Senate against Statehood for these Territories, which address was without force or logic, but which wound up with perhaps the most eloquent passage of his oratorical career, in fervent praise of Texas and her history. This address was a failure as an argument against Statehood for the Territories, but attained marked popular favor as a short oration.

As a matter of fact the author has received many communications condemning Mr. Bailey's practices from citizens of Oklahoma, including former Texans. Just as one illustration of their sentiment, the following memorial is characteristic:

"ELMER, OKLA., March 4th, 1907.

"To the Honorable W. A. Cocke, Austin, Texas.

"OUR ESTEEMED SIR:—We the undersigned citizens of Elmer, Okla., most heartily disapprove of the services rendered by Senator Bailey in behalf of the great Corporations and Trusts while he was serving the people of the great state of Texas as United States Senator.

"We know it to be impossible for even Senator Bailey to serve both the people and the Trust Masters at the same time, because the interest of the people and the interest of the Trusts conflict with each other.

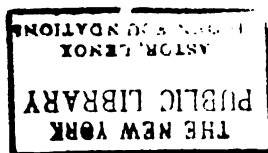
"Having carefully read the evidence brought out by the Investigating Committee, and having watched your untiring efforts in behalf of the great masses of the people, truth and justice, we wish to express to you our heartfelt gratitude for your great work, and commend you to the present and coming generations.

Most sincerely,"

(Signed)

WILEY MUDGETT
J. C. WITTIN
G. K. BELLINGER
G. W. BARR
R. S. DICKSON
E. M. YELDILL
A. J. RATTIFF
J. B. STEWART
R. F. KING

C. B. WHITE	L. H. McCONNELL, M. D.
A. KAHLE	E. C. BROWN
J. P. HOLLADAY	A. H. HUMPHRY
R. L. KING	CR. VERNON
T. F. HATTON	J. H. SHARBUTT
L. A. DURHAM	C. W. EASTON
R. E. BRUNER	B. F. FLOWERS
J. S. MOORE	J. W. DICKS
W. L. KARSTETER	J. D. YELDILL



**A MEMBER OF THE 1907 INVESTIGATION
COMMITTEE.**



**HON. T. H. MCGREGOR,
HOUSTON, TEXAS.**

CHAPTER XV.

CHARGES STATED.

"Beware of false prophets, which come to you in sheep's clothing, but inwardly they are ravening wolves. Ye shall know them by their fruits. Do men gather grapes of thornes, or figs of thistles? Even so every good tree bringeth forth good fruit; but a corrupt tree bringeth forth evil fruit. A good tree cannot bring forth evil fruit, neither can a corrupt tree bring forth good fruit. Every tree that bringeth not forth good fruit is hewn down and cast into the fire. Wherefore by their fruits ye shall know them."—The Scriptures.

STATE OF TEXAS,

County of Travis.

Investigation In Re J. W. Bailey, pending before the Investigating Committees of the State Senate and House of Representatives of the Texas Legislature

To Said Honorable Committees:

Now comes William A. Cocke, a member of the Thirtieth House of Representatives, Texas Legislature, and, upon information and belief, alleges and charges J. W. Bailey as follows:

First—That J. W. Bailey, while a member of the United States Congress, became financially interested in a certain mule contract with the United States Government, in violation of the law and in contravention of his congressional duties, said contract having been procured for one Steger & LaBatt of Texas, by said J. W. Bailey.

Second—That during the early months of the year 1900, J. W. Bailey entered into an agreement with one John Francis, a brother of David R. Francis of Missouri, as well as with said D. R. Francis, and one Joseph Sibley of Pennsylvania, together with H. C. Pierce of the Waters-Pierce Oil Company of Missouri (in consideration of which agreement and conspiracy and the services to be rendered thereunder by said J. W. Bailey, he was to be assisted in the purchase of the Gibbs ranch in Dallas county, Texas), whereby the said J. W. Bailey undertook to use his personal, official and political influence and standing with his lifetime friend, Hon. Thomas S. Smith, then Attorney General of Texas, and with other State officials, to the end that the Waters-Pierce Oil Company, then and now a subsidiary company of the Standard Oil Company, might defeat the ouster judgment which had been rendered against it in favor of the State of Texas, by which said Waters-Pierce Oil Company would be enabled to re-enter the State of Texas in violation of law.

Third—That, in pursuance of said agreement aforesaid, and the

conspiracy thereby created, the said J. W. Bailey, on or about the 25th day of April, 1900, called upon H. C. Pierce in the city of St. Louis, and then and there conspired with the said H. C. Pierce on behalf of the Waters-Pierce Oil Company and the Standard Oil Company to defeat the aforesaid judgment of the courts of Texas, as affirmed by the Supreme Court of the United States.

Fourth—That the said J. W. Bailey well knew, or by the exercise of that patriotic prudence which should characterize the trusted representative of the people, should have known, that the said Waters-Pierce Oil Company was an intrastate trust and an outlaw in the State of Texas, and that the said H. C. Pierce, and other representatives of said company, were under indictment in the District Court of McLennan county, Texas, for violation of the anti-trust law of this State.

Fifth—That notwithstanding such knowledge, the said J. W. Bailey on the date aforesaid, and in pursuance of the conspiracy hereinbefore alleged, accepted employment from the Waters-Pierce Oil Company and the said H. C. Pierce, and then and there did accept and receive the sum of at least thirty-three hundred dollars (\$3,300) as a retainer fee for said services (pretending, however, that the said thirty-three hundred dollars was paid in form of a loan); that said thirty-three hundred dollars (\$3,300) was in fact and in truth financial compensation, or a fee, for his personal, political and official influence in the premises.

Sixth—That said J. W. Bailey's official duties then required his presence in the city of Washington, notwithstanding which he returned to the State of Texas in company with H. C. Pierce and J. D. Johnson, general attorney for the said Waters-Pierce Oil Company; that while enroute to Texas the said J. W. Bailey conspired with the said H. C. Pierce and the said J. D. Johnson, not only to secure the fraudulent re-admission of the Waters-Pierce Oil Company to the State of Texas, but also conspired with the parties aforesaid, to the end that certain penalty suits against said Company, then pending at Waco, Texas, and the indictment and litigation herein above alluded to should be compromised and dismissed on the best possible terms; that in pursuance of said conspiracy the said J. W. Bailey, while enroute to Texas telegraphed to one Oscar L. Stribling, of the law firm of Henry & Stribling of Waco, Texas, associate counsel for the State of Texas, in the penalty suits aforesaid, to meet said J. W. Bailey and his co-conspirators at Hillsboro, Texas, as they were enroute from St. Louis, Missouri, to Austin, Texas; that said Stribling did not meet said parties at Hillsboro, as requested by said telegram from said J. W. Bailey so to do; that the said J. W. Bailey and his co-conspirators, failing to see said Stribling at Hillsboro, came on to Waco, Texas, and there conferred with local counsel for the Waters-Pierce Oil Company, towit, George Clark and Henry & Stribling, the latter firm being associate counsel for the State of Texas, and with the district judge before whom said penalty proceedings and indictments were then pending; that the purpose of said conference was to arrange an

illegal disposition of the litigation aforesaid; that said J. W. Bailey and his co-conspirators refrained at the time in question from calling upon one Cullen F. Thomas, county attorney for McLennan county, who then represented the State of Texas in the litigation pending at Waco, for the reason that the said Bailey and his co-conspirators deemed it wise to arrange with other interested parties, including Henry & Stribling, before they should approach the said Cullen F. Thomas in the premises.

Seventh—That the said J. W. Bailey, H. C. Pierce and J. D. Johnson then continued their journey to Austin, Texas, where the said J. W. Bailey exercised his political, official and personal influence with Thomas S. Smith, whom he had known and who had been his friend from boyhood, to induce the latter, as the Attorney General of Texas, to consent to a compromise of the ouster judgment against the said Waters-Pierce Oil Company; failing in which, the said J. W. Bailey then exercised his influence with said Thomas S. Smith to induce the latter to advise the Secretary of State to issue a new permit to the Waters-Pierce Oil Company upon its fraudulent dissolution and re-incorporation proposed by said J. W. Bailey to be had and without the necessity of mandamus proceedings; that said J. W. Bailey likewise, and at the same time, to wit, on or about the 1st day of May, 1900, exercised his personal, political and official influence with one D. H. Hardy, then Secretary of State, to induce the latter to issue a permit to the said Waters-Pierce Oil Company to do business in Texas upon the fraudulent dissolution and fictitious reorganization aforesaid, thus avoiding the necessity of said company mandamus said Hardy and judicially determining its right to re-enter Texas.

Eighth—That the said J. W. Bailey and his co-conspirators thereupon returned from Austin, Texas, to Waco, Texas, and resumed negotiations looking to the dismissal of the litigation and indictment there pending and hereinbefore described; that the said J. W. Bailey on or about the 2d day of May, 1900, at the city of Waco, Texas, used his personal, official and political influence and prestige in an effort to secure the dismissal or compromise aforesaid, and to that end did approve and endorse a proposition to pay Henry & Stribling a sum of money about five times larger than they were entitled by law under the proposed compromise with the State of Texas, and used said illegitimate offer as an inducement to the said Henry & Stribling, associate counsel for the State, to induce them to make an illegitimate dismissal or compromise of the said litigation; that said J. W. Bailey, at the time and place last mentioned, used his personal, official and political influence with the district judge before whom the litigation was pending in an effort to influence said official in the premises; that said J. W. Bailey and his co-conspirators did at the time make an unsuccessful effort to secure the approval of Cullen F. Thomas of the illegitimate settlement sought to be had.

Ninth—That during the month of June, 1900, said J. W. Bailey,

in furtherance of the conspiracy hereinbefore alleged, participated in, endorsed, approved or connived at the payment to Oscar L. Stribling of the firm of Henry & Stribling aforesaid, the sum of fifteen hundred dollars (\$1,500) as "hush money," to induce the said Stribling or the said Henry & Stribling to refrain from discharging their official duties, by exposing the fraud involved in the re-admission of the Waters-Pierce Oil Company to the State of Texas on or about the 31st day of May, 1900, and from prosecuting the litigation then pending against said company; that said J. W. Bailey had been advised by the public press of the State that the re-admission aforesaid was openly charged to be fraudulent and in violation of the rights of the State of Texas, and that he was also advised thereof by correspondence passing between himself and J. D. Johnson, or himself and H. C. Pierce, or himself and George Clark, which facts were well calculated to put said J. W. Bailey upon notice (although it is here alleged that he already well knew the fact); that he represented interests adverse to those of the people of his State; that the fifteen hundred dollars (\$1,500) "hush money" aforesaid, was falsely styled "a personal loan" in an effort to cunningly conceal the real nature of the transaction in the event of its subsequent disclosure, as was also the case with the thirty-three hundred dollars (\$3,300) paid direct to said J. W. Bailey by H. C. Pierce on April 15, 1900; that notes were executed for the said thirty-three hundred dollars (\$3,300) and the said fifteen hundred dollars (\$1,500) in furtherance of this adroit device to deceive the people of Texas as to the actual character of their monetary dealings.

Tenth—That the said J. W. Bailey well knew that the further sum of thirty-one hundred dollars (\$3,100) was illegitimately distributed at Waco, Texas, by his co-conspirators to Henry & Stribling and possibly to other interested parties, during the month of November, 1900, notwithstanding the said J. W. Bailey, on the 17th day of January, 1907, in the Hall of the House of Representatives, Texas Legislature, made a false and deceptive statement with reference to said thirty-one hundred dollars, wherein he claimed that said sum was used for the fumigation and refurnishing of H. C. Pierce's private car on account of an alleged case of smallpox, which, as your informant is advised and believes, in fact never occurred.

Eleventh—That said J. W. Bailey, during the month of November, 1900, received of H. C. Pierce for the account of the Waters-Pierce Oil Company the sum of two hundred dollars (\$200), after being fully advised of the illegal and fraudulent status of said company in the matter of its re-admission to the State of Texas; that during the year 1900 said J. W. Bailey likely had other and further financial dealings with the Waters-Pierce Oil Company, of which your informant is not advised, but which should be investigated.

Twelfth—That some time after the re-admission of the Waters-Pierce Oil Company to the State of Texas and the fraudulent dismissal of the litigation then pending against said company and its

officers at Waco, Texas, after said J. W. Bailey had used his personal, political and official influence to "quiet all Texas parties" he, said J. W. Bailey, received from the Standard Oil Company of New Jersey, or the Waters-Pierce Oil Company of Missouri, the additional sum of one hundred thousand dollars (\$100,000) as compensation to said J. W. Bailey for the exercise of his influence aforesaid, notwithstanding the said J. W. Bailey, under oath, in the month of January, 1901, and many times thereafter, denied that he ever received any money from the Standard Oil Company or the Waters-Pierce Oil Company.

Thirteenth—That during the month of January, 1901, at the previous so-called investigation of some matters herein referred to, the said J. W. Bailey used his personal, political and official influence in formulating the charges then preferred, in shaping the form of the resolution calling for such investigation, by excluding therefrom the power to take depositions, and excluding from said committee the mover of said resolution; that on or about the 17th day of January, 1901, said Bailey falsely and fraudulently concealed from said committee the thirty-three hundred dollars (\$3,300) received by him from the Waters-Pierce Oil Company, through H. C. Pierce, and the real nature of such transaction, and did also so conceal from said committee his numerous subsequent financial transactions with and for said H. C. Pierce and the Waters-Pierce Oil Company, and did thereby and thenceforth conceal from the people of Texas his real connection with and knowledge of the matters hereinbefore described; that the said Bailey did not conform to his official oath on the occasion of such investigation by telling the "whole truth," but wantonly and deceitfully concealed the gist of his transactions aforesaid with the said H. C. Pierce, the Waters-Pierce Oil Company and the Standard Oil Company.

Fourteenth—That while en route to Texas in January, 1901, to defeat the investigation then proposed against him, the said J. W. Bailey advised H. C. Pierce, then president of the Waters-Pierce Oil Company, to forward the said Bailey the sum of five thousand dollars (\$5,000), which sum your informant believes was used by said Bailey to defeat said investigation, or to so manipulate the same as to exonerate himself and shield the Waters-Pierce Oil Company, to the shame and loss of Texas.

Fifteenth—That the said J. W. Bailey testified to the said investigating committee, "that an honest man could make nothing in the public service"; that the said J. W. Bailey now declares from the United States Senate that he "despises those public men who think it necessary to remain poor in order to be considered honest."

Sixteenth—That the said J. W. Bailey testified to said committee, in explanation of his return to Texas, after conference in St. Louis with H. C. Pierce in behalf of the Waters-Pierce Oil Company, that "he was then on his way to Washington"; that the said J. W. Bailey during the month of September or October, 1906, in public addresses in Texas, explaining the same transaction, stated that he must have

gone to Kentucky to "see" some horses during the interval between April 25, 1900, and May 3, 1900; that on or about the 6th day of December, 1906, the said J. W. Bailey, explaining the same transaction over his signature, in an open letter to the press of Texas, stated, "I told him, however, that I was then on my way to Kentucky for the purpose of 'selling' some horses"; that these two last statements are inconsistent with and contradictory of said J. W. Bailey's sworn statement about the matter above set out, and that one or the other, or both, of said statements, are likely false, and raise a question involving the veracity of said J. W. Bailey.

Seventeenth—That subsequent to the election of J. W. Bailey to the high office of United States Senator by the Legislature of Texas, in January, 1901, the said J. W. Bailey negotiated a financial transaction with H. C. Pierce on behalf of the Waters-Pierce Oil Company, or the Standard Oil Company, in the city of Washington, or in the city of New York, about the 1st day of March, 1901, now claimed by the said J. W. Bailey to have been a "personal loan" from H. C. Pierce to the said J. W. Bailey, but which, as your informant is advised and believes, conceals a fee transaction amounting to eight thousand dollars (\$8,000) for some political or official service rendered to the said Waters-Pierce Oil Company, or to H. C. Pierce; that your informant is advised and believes that said eight thousand dollars (\$8,000) was indeed paid to said Bailey as a fee for defeating, or to be by him used for that purpose, "Texas legislation," referred to in the next succeeding paragraphs, as was also the seventeen hundred and fifty dollars (\$1,750), referred to in the second succeeding paragraph hereof.

Eighteenth—That during the month of March, 1901, the said J. W. Bailey left his official duties at Washington and returned to the State of Texas for the purpose of using his personal, political and official influence and prestige with the Legislature of Texas to defeat the Senate bill No. 164, introduced into said body by Senators Grinnan and Davidson, which act affected, adversely, the interests of the Waters-Pierce Oil Company, and to defeat House bill No. 422, introduced by Representative D. A. McFall, seeking to revoke the alleged fraudulently acquired permit to do business by the fictitiously re-organized and re-admitted Waters-Pierce Oil Company, secured on the 31st day of May, 1900.

Nineteenth—That said J. W. Bailey, in the furtherance of his political efforts and official influence just described, wrote to H. C. Pierce on the 28th day of March, 1901, for the sum of one thousand seven hundred and fifty dollars (\$1,750), which he now claims was a part of the eight thousand dollars (\$8,000), hereinabove alluded to, but which was, in fact, also used by said J. W. Bailey to influence legislation in Texas, or was appropriated by him as compensation for services so rendered, although the said J. W. Bailey has since falsely claimed that the said services were rendered gratuitously, because he deemed the passage of such legislation a reflection upon his official character and standing.

Twentieth—That during the early part of the year 1903 the said J. W. Bailey was employed by Banker Bayne of New York City, the latter being an official of the Seaboard National Bank, a Standard Oil Company ally, to prepare a charter for the Security Oil Company of Texas, which company said J. W. Bailey well knew, or by exercise of ordinary official discretion might have known, was to become a subsidiary company of the Standard Oil Company, and for which services J. W. Bailey was paid an unreasonable fee of five thousand dollars (\$5,000); that such fee was intended as compensation to said Bailey for political services then rendered, or afterwards to be rendered, to the Standard Oil Company and allied trust interests.

Twenty-first—That about the same time said J. W. Bailey supported the Aldrich currency measure, against every Democratic Senator; that the author of said bill was the father-in-law of the son of John D. Rockefeller, president of the Standard Oil Company, and that said J. W. Bailey's attitude upon this bill was probably influenced by his connection with and obligation to the Standard Oil Company and allied corporate trust interests; that J. W. Bailey has become a frequenter of 26 Broadway, New York, that notorious rendezvous of the Standard Oil subsidiary companies, and has frequently been in and about said offices, and has attended meetings of officers of said company or companies.

Twenty-Second—That during his term of office as United States Senator the said J. W. Bailey had large financial transaction with and for the Kirby Lumber Company of Texas, and John H. Kirby personally, wherein and whereby, on account of his close connection with the Standard Oil Company and other large financial trust interests, the said J. W. Bailey was able to dispose of certain securities belonging to the said Kirby Lumber Company, or John H. Kirby, and for which he received a fee of two hundred and twenty-five thousand (\$225,000) dollars, and an alleged interest in the said company of one million (\$1,000,000) dollars; that said transaction and connections for and with said trust interests so embarrass said J. W. Bailey as to render him totally unfit for and ineligible to the office of United States Senator from Texas.

Twenty-Third—That during the term of service of said J. W. Bailey as United States Senator he became interested in or connected with the Tennessee Construction Company and the Tennessee Railroad allied coal interests to such an extent as to embarrass his public service, and in which he represented interests adverse to those of his legislative duties in that the railroad property in question was and is affected by interstate commerce legislation and the carrying of United States mails; that the coal property connected therewith was and is affected by the tariff on coal; that said properties were of the aggregate value of thirteen million dollars (\$13,000,000), and that this matter should be carefully investigated by your committee; that during the month of December, 1906, the said J. W. Bailey stated in a quasi-public interview in the city of San Antonio, Texas, the fact of

his having borrowed hundreds of thousands of dollars from H. Clay Pierce, and his associates, including one "loan" of one hundred and fifty-six thousand dollars (\$156,000), which he used in speculating, and which speculation, your informant is advised, involved the Standardizing of the Southwestern Oil Company, and possibly the Houston Oil Company of Texas, by which competition in oils and oil products in this State has been practically eliminated; that, as a result, the people of this State are annually mulcted of millions of dollars.

Twenty-Fourth—That during the year 1905 the said Bailey collected at one time a fee of one hundred and eighteen thousand dollars (\$118,000) through the Red River National Bank of Gainesville, Texas, as a profit on some railroad transaction, the exact nature of which your informant does not know, but about which he would respectfully refer you to the said J. W. Bailey for further information.

Twenty-Fifth—That during the year 1906 said J. W. Bailey had a large financial transaction, including a note for twenty-eight thousand one hundred dollars (\$28,100), with John W. Gates, once of Texas, afterwards of Chicago, and now of New York, involving, as your informant believes, Mr. Bailey's additional connection with large trust interests, perhaps the Wire and Steel Trusts.

Twenty-Sixth—That during his official career in Congress the said J. W. Bailey became financially interested in certain enterprises with John W. Gates, formerly of Port Arthur, Texas, and received certain financial benefits in consideration of his official support of certain national legislation affecting Port Arthur, Texas, in the matter of its shipping interests.

Twenty-Seventh—That the said J. W. Bailey now denies having "guided and directed" the Waters-Pierce Oil Company back into the State of Texas in 1900, whereas, in the city of Waco, in the month of August, 1900, at the Democratic State Convention, Mr. Bailey used the following language: "Don't blame Smith, Attorney General; don't blame Hardy, Secretary of State; for I have assumed the whole responsibility of the introduction of the Waters-Pierce Oil Company in Texas." That Mr. Bailey's signed letter to the public press on or about December 6, 1906, was in direct contradiction of the above quoted language, and raises the question of his veracity and candor, as well as a question of fact with reference thereto.

Twenty-Eighth—That during the summer of 1906 Mr. Bailey stated to creditable witnesses that while he received no fee for his services for the Waters-Pierce Oil Company in the matter of its re-admission, he regretted that he did not in fact "tell the investigating committee of 1901 that he did receive a fee, and let them make the most of it." That this statement on the part of Mr. Bailey showed a regret on his part that he did not in fact stultify himself while testifying under oath, and displayed a willingness on his part so to do if such conduct on his part would subserve his political ambition.

Twenty-Ninth—That when the present senatorial controversy

was heightened by the disclosures made in November, 1906, in the present suit in Travis county, Texas, wherein the State of Texas is plaintiff and the Waters-Pierce Oil Company is defendant, which disclosures seem to reflect upon the said J. W. Bailey, the latter, on the 29th day of November, 1906, had published in all the leading daily papers in Texas the following wilful, malicious and wholly false aspersion upon the legal department of Texas and the Attorney General thereof: "The course which the Attorney General has now adopted now confirms me absolutely in my opinion that he is a part and parcel of a deliberate and sedate conspiracy to defeat a Democratic nominee and defame an honorable man"; that such language and the false opinion therein declared had no foundation in fact, but was devised by said Bailey in a desperate attempt to conceal his guilt, to becloud the real issues and to continue to deceive the people of Texas in order that he might remain ostensibly in their service while laboring only for his own selfish, political and financial ends; that such conduct is unbecoming a man seeking to retain his high office, and the proof thereof is shown by the refusal of said Bailey to permit his supporters in the present Legislature to provide for an investigation of the Attorney General's Department of Texas.

Thirtieth—That the said J. W. Bailey, on or about the 28th day of December, 1906, at Waco, Texas, and subsequently, to-wit, on or about the 3d day of January, 1907, in a public address at Austin, Texas, deliberately, wilfully, wantonly, and maliciously misrepresented and deceitfully suppressed material portions of the decisions of the Court of Civil Appeals, Third Judicial District of Texas, 19th Civil Appeals, p. 1, State of Texas vs. Waters-Pierce Oil Company, affecting the ouster decree affirmed against said company by the Supreme Court of the United States in the year 1899; that such misrepresentation and suppressions were intended to deceive the people of McLennan and Travis counties, and the people of Texas, as to the fact of the Waters-Pierce Oil Company having been declared to be an intrastate trust; that such false and deceitful conduct was wholly unbecoming a candidate for the United States Senate and raises a question, not only of his candor, but of his veracity.

Thirty-First—That on or about the 5th day of January, 1907, in a public address in the city of Austin, Texas, in behalf of his political ambitions and machinations, the said J. W. Bailey likewise wilfully, wantonly, and maliciously charged the attorneys for the State of Texas with having stolen a fixed sum of money from the State of Texas in connection with cause No. 23,046, District Court of Travis county, State of Texas vs. Cassidy Southwestern Commission Company et al.; that said J. W. Bailey well knew of the false and deceitful assertions there charged and thereby became guilty of untruthful assertions and conduct wholly unbecoming a candidate for the high office of United States Senator; that such misrepresentations are calculated to injure and destroy the efficiency of the legal department of Texas.

Thirty-Second—That during his official career in Congress the said J. W. Bailey either accepted a fee, or a loan, or a gift, of a fund raised by Federal employes in the Indian Territory in consideration or in recognition of the official and political services of the said J. W. Bailey in the matter of the passage of a "Federal court fee bill" through Congress, affecting said employes and officials of the Indian Territory.

Thirty-Third—That you informant is advised and believes that the said J. W. Bailey, directly or indirectly, spent considerable sums of money in his effort to carry Travis county in the primaries held therein on the 5th day of January, 1907, and that at least a portion of said money was spent in ways unbecoming a candidate for the United States Senate from Texas; that during said campaign the said Bailey procured to be present in Austin persons from different parts of the State to assist him in his illegitimate and unbecoming methods; that prior to the assembling of the Legislature and thenceforward until now, the said Bailey has assembled at the city of Austin a considerable number of professional lobbyists, who used and are using all the arts known to their nefarious business in an effort to influence the Legislature of Texas, first, against the investigation of said Bailey's fitness for said office, and, second, to so circumscribe said investigation as to block the way to the real facts; that the said J. W. Bailey has called into consultation different members of the Legislature of Texas and sought to browbeat and coerce them in their duties as Legislators by, among other things, threatening to go into the districts of those opposing him and defeat their re-election in the event that they continued in their efforts to secure a real investigation of said Bailey.

Thirty-Four—That the said J. W. Bailey has just procured to be present in the city of Austin J. D. Johnson, of St. Louis, general attorney for the Waters-Pierce Oil Company, and one Van Blarcom, also of St. Louis, and one Nordani (or some such name) auditor of the Waters-Pierce Oil Company or the Standard Oil Company. For what purpose and at whose expense these parties are assembling at the capitol of Texas, your informant is not specially advised.

Thirty-Fifth—That the said J. W. Bailey is financially interested in the Fort Worth Record, a daily newspaper published in Fort Worth, Texas; that he is directly or indirectly financially and politically interested in the editorial and news policies of the Austin Daily Statesman and the Houston Daily Post; that the latter connections come about through his financial connections with John H. Kirby, Kirby Lumber Company, the Houston Oil Company, the Southwestern Oil Company, the Waters-Pierce Oil Company, and the Standard Oil Company; that such direct and indirect connection with said daily newspapers is being used by said J. W. Bailey in violation of the fundamental law of the land, guaranteeing the right of free speech and freedom of the press, wherein and whereby said J. W. Bailey's connections and conduct just complained of are well calculated to subvert the institutions of free government and the right of

the common people, as against "the interests," with which the said J. W. Bailey is here charged as having become connected, as against the interests of the people of Texas and of the United States.

Thirty-Sixth—That there are other and further facts affecting the official conduct and integrity of the said J. W. Bailey, concerning which your informant is not yet sufficiently advised to justify allegations, but concerning which he desires the permission of your committee to file supplemental allegations hereinafter in the event such proof can probably be had.

Very respectfully submitted,
WM. A. COCKE,
*Member House of Representatives,
Thirtieth Texas Legislature.*

[Supplemental charges just referred to were afterwards filed and are restated and the evidence thereon reviewed in this work under the preceding chapter entitled, "Bailey Practices Before Governmental Departments For Loans, Etc." The evidence in support of major charges, just quoted, has been classified and will now be reviewed in the succeeding chapters.]

CHAPTER XVI.

A CHAPTER OF STANDARD OIL EXHIBITS.

WASHINGTON, D. C., November 29, (San Antonio Express, Nov. 30,) 1906.

Among other things in an interview given to the press on the disclosures by General Davidson, Mr. Bailey said:

"The State, however, cannot possibly prove that I ever accepted employment or compensation from the Waters-Pierce Oil Company for the very sufficient reason that such is not the truth.

"If those who represent the State have any vouchers or papers purporting to have been signed by me and acknowledging the receipt of money from the Waters-Pierce Oil Company, they have been forged; and if they produce any such papers in the court, I will prove that they are forgeries; or if they attempt to prove by secondary evidence that such papers exist in anybody's possession, I will convict the man who so swears of perjury. The statement that I ever drew a draft or gave an order on the Waters-Pierce Company in favor of anybody, for any amount, or for any purpose, is an absolute and unqualified lie."

The transcript of the testimony taken in the Waters-Pierce Oil Company trial at Austin, Texas, in connection with the introduction of the Bailey vouchers, drafts, telegrams and letters, after the State's attorney had offered to introduce these records to show that the Standard Oil Company had audited them, shows that the attorneys for the Waters-Pierce Oil Company objected to their introduction on the ground that Bailey's connection with these transactions would prejudice the jury. Thereupon the correctness and genuineness of these instruments was acknowledged by the attorneys for the oil company in agreeing to the following memorandum: "*The vouchers are withdrawn, and the following agreement is made: It is agreed that the expenditures made as early as June 15, 1900, and authorized by H. C. Pierce, were thereafter audited by auditors of the Standard Oil Company.*"

The facsimile reproductions of the famous instruments, admitted to be genuine, follow on the succeeding pages:

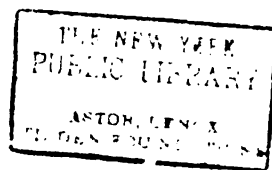
STANDARD OIL EXHIBIT NO. I.

"A FALLEN IDOL."



JOSEPH WELDON BAILEY.

Known in the Secret Cipher Code of Standard Oil as Senator "Republish."



STANDARD OIL EXHIBIT NO. 2.

“My Dear Pierce:”



“Your Friend truly,
J. W. BAILEY.”

STANDARD OIL EXHIBIT NO. 3.

A FATAL "LOAN."

ST. LOUIS NO. Jan 28 1900

WATERS PIERCE OIL COMPANY.

TO N. C. Bailey DR

Alf 25 J. R. Ransom & Son to N. C. Bailey
 250 N. Quinn Street St. Louis of April 25th
McKee

\$3300.00

RECEIVED, W. H. Ransom
 ENTERED BY W. H. Ransom
 RECEIVED BY W. H. Ransom 1900 FROM WATERS PIERCE OIL COMPANY
Three thousand DOLLARS \$3300.00
 ON FULL PAYMENT OF ABOVE ACCOUNT. W. H. Ransom

Bailey took this \$3,300 from Pierce the first day they met, being the very day, April 25th, 1900, that the Mandate of the U. S. Supreme Court was filed with the Clerk of the District Court at Austin forever barring the Oil Trust from Texas—But Bailey immediately brought it back.

STANDARD OIL EXHIBIT NO. 4.

A SIGNIFICANT TELEGRAM WITH MEMORANDUM ATTACHED.

THE WESTERN UNION TELEGRAPH COMPANY.
 21,000 OFFICES IN AMERICA. CABLE SERVICE TO ALL THE WORLD.
 RECEIVED at 412 & 414 PINE STREET, ST. LOUIS, MO.
 TELEPHONES: MAIN, 500; EXCHANGE, 500.
 1590 CH. KL. No. 26 Paid
 Late Mr. Johnson. Wis., June 12.
 Andrew M. Finley,
 St. Louis.
 If Johnson approves authorize Bailey to loan Strickling on his note
 fifteen hundred Bailey should quiet all Texas parties tell him I
 will see him soon.
 H. C. Pierce. 11:05 am
Handwritten: H. C. Pierce by Bailey for \$500.

"That telegram is a forgery just like the draft is a forgery. They forged the telegram to lay the predicate for forging the draft. Somehow God has so created the universe that a lie can not prevail. [He now knows by experience.] I know that the draft which is supposed to be based on the telegram is a forgery."—J. W. BAILEY, at Dublin, Texas, (Dallas News, Dec. 21, 1906.)

STANDARD OIL EXHIBIT NO. 5.

EVIDENCE OF THE FAMOUS \$1,500 DRAFT.

Pay to the order of
WATERS PIERCE OIL COMPANY,
 TO Nancy V. Bailey Dr
State of Texas on Ante. Draft that bears of
Dated of Jan. 15, 1906. \$1,500.00

of J. D. Johnson
over delivered to my wife
by my friend
 ADJUSTED W. H. H. H. Approved for Payment
 ENTERED BY W. H. H. H.
 RECEIVED Jan 15th 1906 FROM WATERS PIERCE OIL COMPANY
Fifteen hundred DOLLARS \$1500.00
 IN FULL PAYMENT OF ABOVE ACCOUNT

DRAFT ATTACHED

1500.00 Thom M. Jones Jan 15th 1906
 RECEIVED OF WATERS PIERCE OIL COMPANY.
Fifteen hundred DOLLARS
Jan 15th 1906 AUDITED H. H. ST
W. H. H. H. J. L. Pierce

"If they can prove [the draft] it will convict me of a falsehood. Bring on the draft and convict me of a falsehood."—J. W. BAILEY, at Comanche, Texas. (Galveston News, Dec. 19th, 1906.)

STANDARD OIL EXHIBIT NO. 6.

PIERCE TO GRUET.



The Waldorf-Astoria.
Fifth Avenue, 33rd and 34th Streets
and Union Court.



NOT VALID
UNLESS THE
ORIGINAL
IS PRESENTED
WITH THIS
COPY

New York, 3/4/1901

J. P. Huntington
Dear Sir,

Take this note into
your bank & deposit cash for like
amount to my credit with Fourth
National Bk. and have given B- my
check.

Yours truly
J. C. Pierce

Check No 4430 \$100 deposited with Nat. Bk
of N. Y.
Cash Voucher # C12 Mch 6/1901

Pierce writes Gruet that he paid Bailey eight thousand dollars. Within two weeks Bailey came to Texas to defeat legislation adverse to the Waters-Pierce Oil Company in March, 1901.

The above letter was written the very day Bailey took the oath of office as U. S. Senator from the State of Texas.

STANDARD OIL EXHIBIT NO. 7.

A "PRIVATE LOAN" TO A "PUBLIC MAN."

WATERS PIERCE OIL COMPANY

TO H. C. Pierce DR

By amount of loan to H. C. Pierce as per note in hands of H. C. Pierce

8000.00

AUDITED E. C. Avery APPROVED FOR PAYMENT J. P. Trust

ENTERED Med. Lett. RECEIVED ST. LOUIS Med. Lett. FROM WATERS PIERCE OIL COMPANY

Eight thousand DOLLARS 8,000.00

YOUR PAYMENT OF ABOVE ACCOUNT H. C. Pierce

8000.00 Washington, D.C. March 1st 1901.

For Months — after date I promise to pay to

the order of H. C. Pierce

Eight thousand Dollars

at his office in St. Louis Mo.

Value received

No. July 1/1901 J. W. Bailey

Bailey testified that this loan was paid by being merged into a larger one of twenty-four or twenty-five thousand dollars, and declined to say just how the latter was paid lest an inquiry would follow as to how he "paid the next one."

This note was given just three days before Bailey crossed over from the Lower House of Congress to the U. S. Senate, where he swore allegiance to his public duties.

STANDARD OIL EXHIBIT NO. 8.

Gainesville Texas. 3 - 28th 1901.

Mr H. C. Pierce,
St. Louis Mo.

My dear Pierce =

One New York exchange for \$1750.00.
it would be payable to any one who
that it will not be necessary for
you to receive it. Send it to me
in 2 days when I will be around
for

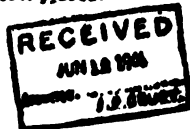
Yours truly
J. W. Bailey

STANDARD OIL COMPANY,

INCORPORATED IN THE STATE OF OHIO
CAPITAL \$1,000,000.00

CHARTERED 1870

ST. LOUIS, MISSOURI, MARCH 28TH, 1901.



Mr. J. P. Gault,
Secretary, Building,

Dear Sir:-

Please send New York exchange for \$1,750.00 to Joseph W. Bailey,
Gainesville, Texas, and charge against legal expenses on account of
Texas legislation.

I sent this amount personally to Mr. Bailey in response to his
enclosed letter of March 28th. Since then Mr. Bailey has returned
the amount to me, and it is now proper for the company to make this
payment.

Attach Mr. Bailey's letter to your voucher and merely enclose
the draft to him without voucher. His enclosed letter will be your
voucher.

Yours truly,

H. C. Pierce

President.

Bailey's letter above quoted was written on
the day following our Texas Anniversary of
the massacre of Goliad.

Bailey always got the money sooner or
later.

AND
OFFICE

STANDARD OIL EXHIBIT NO. 9.

BAILEY COLLECTS FEE AS A STANDARD OIL LOBBYIST BEFORE TEXAS
LEGISLATURE.

STANDARD OIL COMPANY
WATERS PIERCE OIL COMPANY

St. Louis, Mo. *June 12th 1901*

J. W. Bailey

For legal expense account

1,750.00

As per letter of 19th last not attached
dated May 28th
4th Nat Bank, N.Y. #561890
622 Chestnut Street, N.Y.

AUDITED *[Signature]* APPROVED FOR PAYMENT *[Signature]*

DATE *June 12th*

Charles S. Gruet

1,750 / FROM WATERS PIERCE OIL COMPANY

DOLLARS *1,750.00*

ON FULL PAYMENT OF ABOVE ACCOUNT *Cheque Attached*

This money evidently went direct from Waters-Pierce Oil Company's office in St. Louis to J. W. Bailey, as directed to the preceding letter from Pierce to Gruet.

STANDARD OIL EXHIBIT NO. 10.

(Copy Clark to Johnson.)

WACO, Texas, June 5th, 1900.

Jno. D. Johnson, Esq., Carleton Building, St. Louis, Mo.

DEAR SIR: The press of Texas have begun to take up the issue of the permit by the Secretary of the State, Hardy, in a vigorous manner. The ball was opened by the Austin Statesman on last Friday, and by the Houston Post on Sunday, and this morning the Waco morning paper, the Times Herald, is devoting considerable of its editorial space to the same matter. It appears to us that the action of the paper here has been inspired possibly by Mr. Thomas. The weekly press will doubtless take up the cry, *and there is a great deal of dissatisfaction evident throughout the State*. What it may lead to we can not say, but *the condemnation of Hardy and Smith is almost universal*.

In this connection you had best have Mr. Bailey communicate with Stribling. He is very restless and dissatisfied at the outcome here on last Friday, and threatens, privately to us, to institute proceedings, and have a receiver appointed for the defunct company, and proposes claiming the property of the new company as the property of the old. We, however, think he will take no action of that nature, *but it would not be amiss to have Bailey make some suggestions to him*.

Very truly yours,
(Signed) GEO. CLARK.

STANDARD OIL EXHIBIT NO. 11.

(Copy Johnson to Clark.)

ST. LOUIS, Mo., June 16th, 1900.

Hon. Geo. Clark, Waco, Texas.

DEAR JUDGE: I received Judge Gaines' letter of the 18th, which you so kindly sent me. Please accept my thanks for the efforts you made in my behalf.

Mr. Pierce left the City a couple of days after our last return from Texas, and is still absent. He is expected back next week. Nothing will be done about Texas matters until he returns. I am working diligently on transfer of assets, etc., from the old to the new Company. I find that it involves an immense amount of trouble—*even more labor and complications than I expected*. I have the work well under way, and expect to complete it by the end of the month.

I have been furnished from time to time with clippings from the Texas papers relative to the State permit granted to the new Waters-Pierce Oil Company. They place General Smith and Mr. Hardy in an uncomfortable position, I fear. I hope, however, that they will not regret the course they took nor be prejudiced in anywise thereby.

I have arranged to satisfy, at least for the time being, Henry & Stribling. This is strictly confidential.

Very truly,
J. D. JOHNSON.

STANDARD OIL EXHIBIT NO. 12.

(Johnson to Clark.)

ST. LOUIS, Mo., August 2nd, 1900.

Hon Geo. Clark, Waco, Texas.

DEAR SIR: Your favor of the 31st ult., came this morning, and I have forwarded a copy of it to Mr. Pierce at Pride's Crossing, Mass., also to Mr. Bailey in furtherance of the policy outlined in my letter to you of yesterday.

In this connection, I wish to compliment, as well as thank, you for the admirable manner in which you have stated the law and the facts relative to the granting of permit to the new Waters-Pierce Oil Company in reply to McFall's criticisms.

As you can well understand, my sympathies are strongly with Attorney-General Smith and Secretary-of-State Hardy in the assaults that have been made upon them by reason of their course in connection with the granting of the permit. I, however, have refrained from expressing myself, directly or otherwise, fearing that my action in that behalf might be misconstrued and add further to their embarrassment. I wish, though, that you would, at your first opportunity, explain to them personally just how I feel about the matter, and that I, as well as Mr. Pierce, stand ready to do anything that will be of any possible assistance or benefit to them.

Very respectfully,
J. D. JOHNSON.

STANDARD OIL EXHIBIT NO. 13.

(Johnson to Clark.)

ST. LOUIS, Mo., Nov. 12th, 1900.

Messrs. Clark & Bolinger, Waco, Texas.

GENTLEMEN: Your several favors of the 9th came this morning. Will give the subject-matter of the same immediate attention, and write you regarding them to-morrow or Wednesday.

With respect to the "confidential" one, I agree with you that it would not be advisable for Mr. S. [Stribling] to come to St. Louis. If he prefers a conference at this time, I can meet him at some convenient point; but I shall be in Waco two or three days before the 10 prox., and if satisfactory to him I think it would be better to complete arrangements at that time. If he has talked with you regarding the matter or what has passed between him and myself when I was last in Waco, you can repeat to him what I have said above; or if you think best, will write him direct under cover to you. I have met with considerable difficulty and delay in adjusting tax bills, etc., and find

that it will be impossible to get all of the taxes paid and receipted bills to you before the ten days allowed for the purpose by Judge Scott expire. I wrote you several days ago requesting you to get an extension of time if possible; and not having received reply, have today wired you as follows: "Get ten days extension of time for paying taxes. Impossible to obtain all receipts by Wednesday. Answer," which I now confirm. If you secure an extension of time, I shall not mail you any of the tax bills already sent here until I have obtained all of them.

It has occurred to me that Judge Scott's object will be accomplished by Mr. Finlay, as intervenor, giving a bond to the State in say \$5,000 or \$10,000, with Mr. Pierce and your Judge Clark—if it is not asking too much of him to assume the responsibility—as sureties, conditioned for the faithful payment of all State, County and City or Municipal taxes, both general and occupation license taxes, which may have been assessed against the old Company and were payable at the time of its dissolution. This would avoid the inconvenience and possible embarrassment which may result from exhibiting or filing of tax receipts in conformity with Judge Scott's order. Won't you see whether such an arrangement can be made, and advise me of the result by wire?

Last fall I tendered Secretary of State Hardy the State corporation tax for the years '98 and '99. This was in connection with the application for a new license to the old Company. He declined to accept them, holding that inasmuch as the Company was precluded by the Austin judgment from doing business in the State, it was not liable for the payment at that time. Thinking it possible that inasmuch as the Company had continued doing business after the judgment at Austin pending the appeal and *supersedeas*, that that tax was probably due, I wrote to Secretary of State Hardy, asking whether his Department had any claim against the old Company on account of that tax, and he replied that he had to the extent of \$260.00. I am today sending him a draft for the amount, and directing him to mail receipt for same to you. Kindly see that it is in proper form.

Won't you please send me, at your early convenience, a copy of the interplea, Thomas' demurrer, etc., to same, and our demurrer to his answer in the penalty suit at Waco?

I neglected to say that I was absent from the city from the 9th until this morning, and hence did not get your wire of the 9th, until today.

Yours very truly,

J. D. JOHNSON.

STANDARD OIL EXHIBIT NO. 14.

(CLARK TO JOHNSON.)

WACO, TEXAS, November 15th, 1900.

Jno. D. Johnson, Esq., St. Louis, Mo.

DEAR SIR:—We have been so closely engaged in Court ever since you were here as not to be able to keep up with our correspondence, as we worked from early morn until dark, and on one or two occasions after dark. We take them up now in their order.

Answering yours of November 8th, we beg to acknowledge receipt of check for \$50.00 covering Mr. Stuart's bill, which was handed to Mr. S.

With reference to the payment of taxes, we wired you today as follows: "Judge declines to take bond, says he prefers the other course. We will take care of receipts, letter follows," which telegram we beg to confirm. We suggest that you forward us all receipts in hand on Saturday afternoon so that we may receive them by Monday. If any others come in on Sunday or Monday, mail them to us as late as Monday evening, so that we may get them Wednesday morning, and do not wait to get them all. Send what you have on Saturday evening. *We do not think there will be any trouble with Judge Scott in the matter*, and we propose to get into Court before the ten days expire, make an exhibit of the tax receipts merely for his satisfaction, and then make up the judgment, reciting all the taxes have been paid. It might be well to accompany our remittance of the tax receipts on Saturday with the affidavit of Andrew M. Finlay to the effect, that it is all the taxes able to get up, or of which they have any

Our friend [Stribling] insists that the matter He will probably be there on Monday morning. We have gone very lightly over the matter with him, and made suggestions indicated by you, but without apparently convincing him. Of course, the matter is left with you. We saw Judge Scott today before sending you the telegram quoted above, and submitted the matter to him, and he remarked somewhat after this style: "I prefer the other course. I want the matter closed up, and do not wish to take a bond. Although you will understand that the bond you tender so far as security is concerned is ample; but I prefer that the matter should be finally closed up by the payment of the taxes." *Evidently he had some reason for this, personal or political, I presume.* We assume that you can make the arrangements and have the tax receipts here by the time indicated above. Hardy has never sent the tax receipts of the corporation taxes for the years 1898 and 1899, but when he does we will see that it is in proper form. We will have copies of the plea, Thomas' demurrer and answer, and our reply thereto copied and sent you as soon as we get it done.

Answering yours of November 13th, some of which has already been answered herein, we beg to say that when the receipts reach us

we will see that they are not filed in court. We will submit them to the court, *and doubtless he will not read them*, and we will state to the court that they comprise tax receipts for all taxes that we could possibly hear of, or such other statement as may accord with Finlay's affidavit. The court not of the proper certainly has no use for the They do not expire with the dissolution of the Company, but can be transferred to the new Company by regular assignment for the unexpired portion of the time.

The idea that the penalty suit was a quasi criminal case has occurred to us, and the only thing in the way is the decision of the Court of Civil Appeals in the Austin case, which held that it was a civil proceeding, contrary to all authorities previous to that time. This opinion of the Court of Civil Appeals, as you know, was approved by the Supreme Court in its refusal of a writ of error. The writer remembers that in revising the laws and preparing the first Revised Statutes of the State in 1878 to 1880, he being a member of the Commission charged with that work, the commissioners provided that appeals in the case of forfeited bail should go to the Supreme Court as in other civil cases. The Supreme Court decided that this revision of the law was unconstitutional, in that they were necessarily criminal cases, and would have to go to the Court of Criminal Appeals. This is about the attitude of the law, or rather the attitude of the decisions, but, as you know, decisions are not always law. What may be the result we can not state; but we shall certainly take the position in the Court of Criminal Appeals that the suit is a criminal case, and that therefore no appeal lies on behalf of the State.

We believe this answers all your inquiries. We are beginning to work upon the indictment in the case, with a view of preparing proper exceptions thereto in the nature of a motion to quash and hope to be ready, before your arrival, with all authorities accessible. Be certain to come down about the 7th of December, as we ought to spend two or three days examining these receipts and getting ready for trial.

Yours truly,

(Signed) GEO. CLARK.

The blank lines in the foregoing correspondence between John D. Johnson, General Attorney for the Waters-Pierce Oil Company, and George Clark, General Attorney for the Company in Texas, *clearly indicate that Johnson and Clark were corresponding about schemes of such a character as to be afraid to put all they said in black and white, even in confidential letters between themselves.*

STANDARD OIL EXHIBIT NO. 15.

Stock Certificate Record Waters-Pierce Oil Company on file in Attorney General's office, May 1, 1900, when Bailey came back to Texas with "My dear Pierce" and J. D. Johnson.

SHARES

800	W. H. Waters, June, 1882.
500	W. H. Waters, June, 1882.
300	W. H. Waters, June, 1882.
400	Chess Carley Co., June, 1882.
400	Chess Carley Co., June, 1882.
1,598	Trustees of Standard Oil Trust, June, 1882.
1	H. A. Hutchinson, June, 1882.
1	W. P. Thompson, June, 1882.
500	H. C. Pierce, Jan., 1883.
300	H. C. Pierce, May, 1884.
400	Trustees S. O. Trust, March, 1885.
400	Trustees S. O. Trust, March, 1885.
1,597	Trustees S. O. Trust, June, 1885.
1	W. H. Tilford, June, 1885.
1	Davis S. Cowles, March, 1887.
1	H. M. Tilford, March, 1888.
1	Silas H. Payne, March, 1889.
200	W. H. Waters, June, 1889.
600	W. H. Waters, June, 1889.
1	W. H. Tilford, July, 1889.
1	A. M. Finlay, Feb., 1890.
199	H. C. Pierce, Feb., 1890.
600	H. C. Pierce, Feb., 1890.
350	Trustees of S. O. Trust, March, 1890.
260	H. C. Pierce, March, 1890.
1	George Gregory, April, 1890.
1	W. H. Tilford, July, 1890.
1	Silas H. Payne, July, 1890.
1	C. M. Pratt, March, 1891.
1	H. M. Tilford, March, 1891.
1	C. M. Adams, Feb., 1892.
1	J. P. Gruet, Feb., 1892.
2,747	Standard Oil Co., of New Jersey, May, 1892.
1	C. M. Pratt, Feb., 1899.
1	J. P. Gruet, Feb., 1900.

The "Chess Carley Co.," fourth and fifth lines above, was owned by Standard Oil Company.

STANDARD OIL EXHIBIT NO. 16.

WATERS-PIERCE OIL COMPANY WAS NEVER LEGALLY DISSOLVED.

"I, Henry Groll, clerk of the Circuit Court of the city of St. Louis, State of Missouri (the same being a court of record, having a seal), do hereby certify that no corporation by the name of Waters-Pierce Oil Company has ever made application for dissolution as provided for in Section 977 of the Revised Statutes of the State of Missouri of 1899; and that no judgment of dissolution of any incorporation by the name of Waters-Pierce Oil Company has ever been rendered by any of the seven divisions of the Circuit Court of the Eighth Judicial Circuit of the State of Missouri, of which I am the clerk.

"In testimony whereof I hereunto set my hand and affix the seal of said court, at office in the city of St. Louis, this the 20th day of December, 1901.

(Seal)

"HENRY GROLL,

"Clerk of the Circuit Court of the City of St. Louis, Mo."

STANDARD OIL EXHIBIT NO. 17.

AFFIDAVIT OF H. CLAY PIERCE.

**THE STATE OF TEXAS,
COUNTY OF TRAVIS.**

I, Henry Clay Pierce, do solemnly swear that I am president of the corporation known and styled Waters-Pierce Oil Company, duly incorporated under the laws of Missouri on the 29th day of May, 1900, and now transacting or conducting business in the State of Texas, and that I am duly authorized to represent said corporation in making this affidavit, and I do further solemnly swear that the said Waters-Pierce Oil Company, known and styled as aforesaid, has not since the 31st day of January, 1900, nor at any day since that date, and is not now a member of or a party to any pool, trust, agreement, combination, confederation or understanding with any other corporation, partnership, individual, or any other person or association of persons, to regulate or fix the price of any article of manufacture, mechanism, merchandise, commodity, convenience, repair, any product of mining, or any article or thing whatsoever, or the price or premium to be paid for insuring property against loss or damage by fire, lightning, storm, cyclone, tornado, or any other kind of policy issued by the parties aforesaid; and that it has not entered into or become a member of or a party to any pool, trust, agreement, contract, combination or confederation to fix or limit the amount of supply or quantity of any article of manufacture, mechanism, merchandise, commodity, convenience, repair, or any product of mining, or any article or thing whatsoever, or the price or premium to be paid for insuring property against loss or damage by fire, lightning, storm, cyclone, tornado, or any other kind of policy issued by the parties aforesaid; and that it had not issued, and does not own any trust certificate for any corporation,

agent, officer or employe, of for the directors or stockholders of any corporation; has not entered into, and is not now in any combination, contract or agreement with any person or persons, corporation or corporations, or with any stockholders or directors thereof, the purpose and the effect of which said combination, contract or agreement would be to place the management or control or agreement with any person or persons, corporation or corporations, or with any stockholders or directors thereof, the purpose and effect of which said combination, contract or agreement would be to place the management or control of such combination or combinations, or the manufactured product thereof, in the hands of any trustee or trustees, with the intent to limit or fix the price, or lessen the production and sale of any article of commerce, used or consumption, or to prevent, restrict, or diminish the manufacture or output of any such article; that it had not entered into any conspiracy, defined in the preceding sections of this act, to form or secure a trust or monopoly in restraint of trade; that it has not been since January 31, A. D. 1900, and is not now a monopoly by reason of any conduct on its part which would constitute it a monopoly under the provisions of Sections 2, 3, 4, 5, 6, 10 and 11 of this act, and is not the owner or lessee of a patent to any machinery intended, used or designed for manufacturing any raw material or preparing the same for market by any wrapping, baling or other process, and while leasing, renting or operating the same refuses or fails to put the same on the market for sale; that it had not issued, and does not, for any corporation or any agent, officer or employe thereof, or for the directors or stockholders thereof, entered into, and is not now into any combination, contract or agreement with any person or persons, corporation or corporations, the purpose and effect of which combination, contract or agreement would be a conspiracy to defraud, as defined in Section 1 of this act or to create a monopoly as defined in Sections 2, 3, 4, 5, 6, 10 and 11 of this act.

HENRY CLAY PIERCE,
President.

Subscribed and sworn to before me, a notary public within and for the county of Travis, this 31st day of May, 1900.

(Seal)

N. M. NAGLE,
Notary Public.

STANDARD OIL EXHIBIT No. 18.

GROSS AND NET TEXAS PROFITS W.-P. OIL CO., 1900-1904 INCLUSIVE.

Divisions.	Year 1900.	Year 1901.	Year 1902.	Year 1903.	Year 1904.	Total for Five Years.	Gross. Net.
East Texas and La	\$ 145,000.95	\$ 167,133.84	\$ 215,661.61	\$ 228,039.23	\$ 215,803.28	\$ 971,638.91	Gross.
	61,353.61	97,081.14	103,625.06	102,340.36	76,353.70	440,753.87	Net.
North Texas and Okla.....	314,453.10	437,419.45	481,641.93	499,167.26	425,513.54	2,158,195.28	Gross.
	203,532.00	293,452.41	315,016.75	306,402.47	240,694.83	1,359,098.46	Net.
Central Texas	284,180.17	365,605.27	337,554.08	344,090.50	314,656.60	1,646,086.71	Gross.
	170,782.48	232,386.67	217,715.67	201,116.39	170,160.39	992,161.60	Net.
South and West Texas	258,379.79	334,757.62	347,463.69	394,450.19	366,641.55	1,701,692.84	Gross.
	98,927.31	150,451.86	148,444.14	151,693.72	141,361.12	690,878.15	Net.
Totals	\$ 1,002,014.01	\$ 1,304,916.18	\$ 1,382,321.31	\$ 1,465,747.27	\$ 1,322,614.97	\$ 6,477,613.74	Gross.
	534,595.40	773,372.08	784,801.62	761,552.94	628,570.04	3,482,892.08	Net.

STANDARD OIL EXHIBIT NO. 19.

SUMMARY AND RECAPITULATION.

Analyzing and summarizing the above figures which were procured from the books of the Company through a source which the author regards as entirely reliable, as well as the figures hereinafter stated, we find that the gross profits of the Waters-Pierce Oil Company for the first five years after Bailey procured the re-entrance of same into Texas, amounted to \$6,477,613.74; whereas their net profits for the same period were \$3,482,892.08 on Texas business.

To the net profit of the Waters-Pierce Oil Company, 1900 to 1904, inclusive, amounting to \$3,482,892.08, should be added the net profit of the Standard Oil refineries on the billing prices to the Waters-Pierce Oil Company amounting to approximately \$3,515,000; or an aggregate net profit to the Standard Oil Company on Texas business for the five years under consideration of \$6,997,892.08.

To this net profit made by the Waters-Pierce Oil Company in Texas for the five years period mentioned there should be added the profit made by the Standard Oil Company refineries on the billing prices to the Waters-Pierce Oil Company, amounting to approximately \$3,515,000. This latter sum added to the gross profits of the Waters-Pierce Oil Company, \$6,477,613.74, gives us an aggregate of \$9,992,613.74, being the aggregate contribution to the Standard Oil monopoly by the people of Texas for the five years mentioned, or a tax of something like \$2.50 per capita on every man, woman and child in the State.

Oil can be produced and refined from Texas crude oil and laid down at all common points in Texas at an average cost of $3\frac{1}{2}$ cents per gallon. The average charge per gallon to the Waters-Pierce Oil Company by the Standard Oil refineries from which refineries it purchased exclusively, was 7 cents per gallon for refined oil, or 100 per cent. profit on each sale.

The average price for refined oil as sold to Texas dealers by the Waters-Pierce Oil Company was \$7.25 a barrel, or $14\frac{1}{2}$ cents per gallon—a little more than 100 per cent. profit by the Waters-Pierce Oil Company after it had paid the Standard Oil Company 100 per cent. profit on each purchase from the latter company. It will thus appear that the average annual profits made by both the Standard Oil Company and the Waters-Pierce Oil Company on Texas business since Bailey reintroduced them to the State, have been 100 per cent. multiplied by as many times as they turned over their capital investment in Texas during each year. Is it any wonder, then, that Pierce testified in St. Louis, September 10, 1906, (when he was forced after having been arrested, to testify in a suit between he and Gruet) that the annual profits on Texas business by the Waters-Pierce Oil Company ranged from six to seven hundred per cent.?

"All these figures are absolutely book records," writes the gentleman who procured them for the author. They are borne out by the

report of the Commissioner of Corporations to the President, 1907, on the subject of the Standard Oil monopoly in the United States.

STANDARD OIL EXHIBIT NO. 20.

TESTIMONY CONCERNING BAILEY'S KENTUCKY PROPERTY.

The witness Bailey (continuing p. 947)—

Cross-examination by Mr. Jenkins:

Q. Senator, at the time you met Mr. Pierce in St. Louis, being then on your way to Washington by the way of Kentucky, you state, to sell some horses, have you any objection to stating the extent of your holdings in Kentucky at that time, what they consisted of?

A. I did not own an acre of land, but I had a number of horses there, *and I rented a farm there.*

Q. How long had you been in the horse business in Kentucky?

A. Twenty years. Well, not twenty years then. I have owned horses there for twenty years.

Q. Was it an extensive horse ranch there?

A. Well, I have always had a good lot of mares there and a good lot of young horses.

BAILEY WAS TOO POOR IN 1900 BUT IS ABLE NOW TO OWN KENTUCKY REAL ESTATE.

He began his horse investments in Kentucky during the time he wasted \$100,000 of trust funds for his uncle and aunt, but it remained for Pierce and Kirby to employ him before he was able to begin the purchase of real estate in and around Lexington. Then it was his tide of fortune turned and his richly laden "ship came home;" then it was he unfurled his sail upon the sea of commercial piracy and played the game of free booter with the pirate trust masters.

STANDARD OIL EXHIBIT NO. 21.

BAILEY NOW A KENTUCKY LANDLORD.

While Mr. Bailey began his Kentucky operations many years ago, the author's investigation covers only a part of his transactions there since he entered the Senate. The following data was procured for the author by a reputable Lexington attorney from the records of the County Clerk's office.

Here is a list of his real estate purchases in and near Lexington, beginning in 1902:

KENTUCKY PURCHASES.

Grantor	Consideration
B. S. Gentry, Mar., 1902, 10.15 acres.....	\$ 9,109.18
J. F. Curry, Dec., 1903, 132 ft. lot.....	10,000.00
J. F. Curry, Jan., 1904, 240 ft. lot.....	3,000.00
T. J. Shelby, Mar., 1904, 46.62 acres.....	9,180.00
B. S. Gentry, Oct., 1904, 1.75 acres.....	1,280.00

KENTUCKY PURCHASES—CONTINUED.

Grantor	Consideration
Shackelford, Jan., 1905, .25 acres.....	\$ 500.00
Freeman, et al., Nov., 1905, 150 acres.....	29,500.00
Freeman, et al., Mar., 1905, 240 ft. lot.....	10,000.00
S. O. Snyder, Feb., 1906, 204 acres.....	10,000.00
And other valuable considerations not expressed	
This land is estimated at \$250.00 per acre.	
Excess over \$10,000.00 stated	\$41,000.00
G. Wilson, et at., Apr., 1906, 173 (estimated).....	25,000.00
J. Richardson, June, 1906, 18.39 acres.....	3,600.00
W. S. Payne, Mar., 1907, 165 acres.....	24,832.00
71 horses, (tax list 1906),.....	7,250.00
Total Kentucky Purchases since 1902.....	\$184,251.18

STANDARD OIL EXHIBIT NO. 22.

WHERE DID BAILEY GET IT?

Texas property, as per sworn testimony of J. M. Lindsay and W. O. Davis, (Committee Report pp. 409-413, 508-514) as follows:

Kentucky property, above listed.....	\$184,251.18
D. T. Lacy Building, bought in 1905, Gainesville, Tex...	8,500.00
N. S. Rose Building, bought in 1906, Gainesville, Tex...	7,500.00
Pierre-Davis Building, bought in 1906, Gainesville, Tex.	4,000.00
F. A. Tyler Building, bought in 1905, Gainesville, Tex...	10,000.00
F. A. Potter Building, bought in 1907, Gainesville, Tex.	8,500.00
Lassita Building, bought in 1906, Gainesville, Tex.....	10,000.00
Red River National Bank Building, bought in 1904, Gainesville, Tex.....	6,500.00
Bowmer property, bought in 1906, Gainesville, Tex.....	3,500.00
Lot on Denver Street, Gainesville, Texas, bought in 1907	2,500.00
Ed Bowmer property, Davidson and Dodson Streets, Gainesville, Tex.....	7,000.00
Chapman Place, 2,000 acres, \$60.00,.....	120,000.00
1,000 acres, sundry,.....	60,000.00
Whitley & Jones Loan,.....	40,000.00
Loan against Lindsay National Bank (about).....	15,000.00
Gibb's Ranch (yet on hand).....	50,000.00
Stock in Fort Worth Record,.....	10,000.00
Prospective Fee from Harriman et al on sale of Tennessee Central Railroad, option maturing in July, 1908 (estimated)	500,000.00
Total Visible Purchases and Holdings.....	\$1,047,251.18

STANDARD OIL EXHIBIT NO. 23.

MILLIONAIRES OF THE UNITED STATES SENATE, FEBRUARY, 1908.

A writer in the *Kansas City Star* submits a list of the millionaires in the United States Congress, basing his estimates upon, "information secured from members of their own State delegations and from other reasonably trustworthy sources." The Senate list follows:

THE SENATE MILLIONAIRES.

Simon Guggenheim, Colorado.....	\$60,000,000
Isaac Stephenson, Wisconsin.....	30,000,000
Stephen D. Elkins, West Virginia.....	25,000,000
Nelson W. Aldrich, Rhode Island.....	12,000,000
John Kean, New Jersey.....	10,000,000
Redfield Proctor, Vermont.....	8,000,000
Henry A. DuPont, Delaware.....	7,000,000
Jonathan Bourne, Jr., Oregon.....	6,000,000
Francis B. Newlands, Nevada.....	6,000,000
Chauncey M. Depew, New York.....	5,000,000
Geo. P. Wetmore, Rhode Island.....	5,000,000
Morgan G. Bulkley, Connecticut.....	3,000,000
Levi Ankley, Washington.....	3,000,000
George S. Nixon, Nevada.....	3,000,000
W. Murray Crane, Massachusetts.....	3,000,000
Eugene Hale, Maine.....	3,000,000
George C. Perkins, California.....	2,000,000
Francis E. Warren, Wyoming.....	2,000,000
Nathan B. Scott, West Virginia.....	2,000,000
Philander C. Knox, Pennsylvania.....	2,000,000
Joseph B. Foraker, Ohio.....	2,000,000
Henry C. Lodge, Massachusetts.....	1,500,000
Thomas C. Platt, New York.....	1,000,000
JOSEPH W. BAILEY, TEXAS.....	1,000,000
Albert J. Hopkins, Illinois.....	1,000,000
Thomas S. Martin, Virginia.....	1,000,000
Harry A. Richardson, Delaware.....	1,000,000
William Alden Smith, Michigan.....	1,000,000
Frank Obadiah Briggs, New Jersey.....	1,000,000
Robert L. Owen, Oklahoma.....	1,000,000
Boise Penrose, Pennsylvania.....	1,000,000
Reed Smoot, Utah.....	1,000,000
Total	\$210,500,000

STANDARD OIL EXHIBIT NO. 24.

"PROFITS OF STANDARD OIL COMPANY STUPENDOUS."

New York, September 18, (San Antonio Express, September 19, 1907.) At a judicial hearing, in New York, taking testimony on behalf of the Federal government, the following facts were developed:

Profits of more than 1,000 per cent. per year are made by the Standard Oil Company of Indiana, a corporation sentenced to pay a fine of \$29,240,000 by Judge Landis in Chicago. The Indiana company's profits for 1906 were \$10,515,82; in 1903 they were \$8,753,410, a total for two years' business of \$18,269,492. The Standard Oil Company of New Jersey owns 9,990 shares of the Indiana Company's stock. The Indiana company is capitalized for \$1,000,000. The dividends paid by the Standard Oil Company of Indiana last year aggregated \$4,485,500.

HOW IT WAS DONE IN TEXAS:**A GAME OF HIDE AND SEEK IN THIS STATE.**

Clarence G. Fay, assistant comptroller of the Standard was recalled today and questioned about the income on the C. M. Pratt Investment Company. He said the income from this source in 1902 was \$173,400, and that the money was paid over to the Standard Company, by C. M. Pratt, *who, yesterday, testified that he held stock in the Waters-Pierce Oil Company of Texas for the Standard Company, and that the Standard Company held the stock of the C. M. Pratt Investment Company in lieu of the Waters-Pierce Oil Company stock.* Mr. Fay testified that between 1899 and 1906 the stock of the Waters-Pierce Oil Company did not appear on the books of the Standard Oil Company of New Jersey. In 1899 the latter company's stock sheet showed ownership of 2,747 shares of the Waters-Pierce stock, valued at \$3,067,982. [It should be remembered that this reference is to the assets of the Waters-Pierce Oil Company all over the southwest. It is not thought that their actual investment in Texas has exceeded at any time \$100,000, and that they juggled with the figures according to the purpose of the calculation, whether as a basis for taxation or to show great injury to their property interests, as the situation might demand from time to time.]

Charles M. Pratt, secretary of the Standard Oil Company, was recalled to the witness stand and told how he had held for the Standard Oil Company the stock of the Waters-Pierce Oil Company at the time when it was not permitted to operate in the State of Texas.

Mr. Pratt threw some interesting sidelights on the Waters-Pierce Oil Company, the stock of which was held for a long period by M. M. Van Buren, who was not connected with the Standard Oil Company. Mr. Van Buren purchased the stock from Mr. Pratt and early this year the Standard Company bought it back. *The nature of the transaction showed that Mr. Van Buren received from the Standard*

Oil Company exactly what he paid for the stock and that during the time he held it the dividends were paid to the Standard Oil Company.

STANDARD OIL EXHIBIT NO. 25.

The following excerpts are taken from "Report of the United States Commissioner of Corporations on the Petroleum Industry, Part 1, 1907."

The general outline of the history of the Standard Oil Company is so well known as to need but little repetition. It is only necessary to point out certain salient facts and conclusions therefrom.

The most important fact is that throughout the entire history of this concern, from 1867 to the present, throughout its various forms, and in spite of several purely formal reorganizations, there has been an absolute continuity of control by a few individuals. There has been apparent throughout their operations a definite, persistent policy of exclusive domination of the petroleum industry.

Starting with the partnership of Rockefeller, Andrew & Flagler, formed in 1867, in 1870 these interests took the corporate form of the Standard Oil Company of Ohio, with a capitalization of \$1,000,000. At that time they controlled not over 10 per cent of the refining business of the country. Within ten years from that date the process of combination under these interests had been so rapid that they admittedly controlled from 90 to 95 per cent. of this branch of the oil industry, and their control of the pipe-line business had increased with equal rapidity. This commanding position having been gained, in 1882 they concentrated their holdings under the Standard Oil Trust, which included the entire stock of 14 companies and a majority interest in 26 additional concerns. [Of which latter the W. P. O. Co. was one.]

In 1892, as a result of a legal attack on this form of organization, the trustees announced that the trust would be dissolved, and a process of so-called dissolution took place. This in no way, however, affected the original control of the aforesaid individuals over the entire concern, because the stocks of each of the various subsidiary corporations were not returned to their original holders, but were allotted to the holders of trust certificates on a pro rata basis, with the result that the trustees, who had previously held the majority of the trust certificates, now held a majority interest in each one of the constituent companies.

In 1898 contempt proceedings were started against the Standard Oil Company of Ohio on the ground that it had not withdrawn from the trust. Thereupon, pending the decision, these interests selected the Standard Oil Company of New Jersey as a holding corporation for the constituent Standard companies, and increased its common stock to \$100,000,000 for that purpose. This company then gave its own stock in exchange for the stock of such companies. This change, like the previous one of 1893, as was its obvious purpose, left the monopoly power of the Standard capitalists undisturbed. The same group of men who had been holders of a majority of the trust certifi-

cates, then of a majority of the stocks in the subsidiary companies, now became holders of a majority of the stock of the controlling New Jersey company.

The outstanding stock of this company is about \$98,000,000. It controls at least 10 refining companies, 4 lubricating-oil companies, 3 crude-oil producing companies, 13 pipe-line and other transportation companies, 6 marketing companies, 16 natural-gas companies, and 15 foreign concerns, besides having close affiliations with a considerable number of other concerns. (p. XVII).

Having thus established and maintained its monopoly of the pipe-line business, it has in substance refused to act as a common carrier or to transport and deliver oil for independent producers or to independent refineries, and, where making any rates at all for such transportation, has made them at least as high as the railroad rate between the same points, although the cost of pipe-line transportation is very much less. (p. XIX). [Bailey has boasted that his proposed pipe-line amendment to the rate bill would have affected the Standard Oil Company adversely. As a matter of fact it affected independent pipe-lines adversely because the Standard Oil Company as herein shown, "has refused to act as a common carrier or to transport and deliver oil for independent producers or to independent refineries." In other words, Bailey proposed adverse legislation affecting only those pipe-line companies offering to transport oil as common carriers. The Standard has never done this.]

WATERS-PIERCE OIL COMPANY SUPREME IN SOUTHWEST.

An important corroboration of the evidence of the above statistics, that the Standard controls an enormous proportion of the marketing business, is found in the statistics kept by the Standard itself regarding that proportion. The Standard has a remarkably complete system of securing information as to the business of its competitors, partly through the observation of its own employees, and partly through reports of railway employees *who are bribed to disclose the shipments of independent concerns*. On the basis of such data the Standard compiles elaborate statements of the proportion of the marketing business which it controls. The Bureau has secured such estimate of the Standard for the territory of its subsidiary, the Waters-Pierce Oil Company, which includes substantially the Southwestern States, and for part of the South Atlantic States. *According to its own statement*, the Waters-Pierce Oil Company controlled the following proportions of the sale of illuminating oil in its territory in the United States (the sales of the Republic Oil Company, a bogus independent concern of the Standard, are not included either with those of the Waters-Pierce or of competitors) 1892, 92 per cent; 1897, 91 per cent; 1898, 90 per cent; 1899, 91 per cent; (1900 missing); 1901, 92 per cent; 1902, 92 per cent; 1903, 91 per cent; 1904, 87 per cent. The proportion controlled by the Waters-Pierce varied considerably in its different divisions. In 1906 the range was from 86 per cent in the

South Texas division to 97 per cent in the East Texas and Louisiana division. In 1904 the proportion of control ranged from 76 per cent in the South Texas division to 95 per cent in the Arkansas division. Similar statistics for the control of the sale of gasoline show almost precisely the same percentages for the entire Waters-Pierce territory in the United States, the variation in the years from 1896 to 1904 being from 88 to 94 per cent. In some of the divisions of the Waters-Pierce territory the proportion of its gasoline sales during the several years was from 98 to 100 per cent of the total. (p. 19.)

The Republic Oil Company does not have an exclusive field, but sells in the territory of other Standard marketing concerns. It was for a considerable period of time operated as a nominally independent concern, being used to attack genuinely independent companies.

Waters-Pierce Oil Company—This company is one of the largest marketing concerns in the Standard system, and is of particular interest for the reason that it was from 1900 to 1906 operated as a nominally independent company, and this despite the fact that it was named in the trust agreement of 1882 as being one of the group of concerns in which a partial interest was acquired. It was not operated side by side with other Standard Oil marketing concerns, but had a special territory of its own. This comprises an immense area in the Southwest, including the southern part of Missouri, all of Arkansas, Indian Territory, Oklahoma, Texas, and the western portion of Louisiana. The company also operates throughout the Republic of Mexico, where it has an almost complete monopoly of the products which it handles.

In Mexico the Waters-Pierce Oil Company was for some time engaged exclusively in the marketing of petroleum products, but subsequently it established refineries in that country, purchasing crude petroleum at the Atlantic seaboard from the Standard and transporting it to these Mexican plants for refining. (p. 91.)

The Standard's marketing business in Italy is conducted through the Societa Italo-Americana pel Petrolio (Italian-American Petroleum Company). This company also has an establishment for the manufacture of cans.

In Australasia the Standard's business is mainly conducted through the Colonial Oil Company, a New Jersey corporation. The Waters-Pierce Oil Company, as already shown, operates throughout the Republic of Mexico, where, in fact, it has had practically no competition. (p. 93.)

Equipment of Waters-Pierce Oil Company—In the recent case brought by the State of Missouri against the Standard Oil Company, the Waters-Pierce Oil Company, and the Republic Oil Company, the officers of the Waters-Pierce Oil Company presented a large amount of evidence regarding the general nature of its organization and business. This testimony contains valuable information as to the method of marketing oil. *The Waters-Pierce Oil Company is the Standard marketing organization for the Western South Central*

States, including part of Missouri, part of Louisiana, and all of Arkansas, Indian Territory, Oklahoma and Texas. It also does an extensive marketing business in Mexico. In that country it has three refineries, but the oil which it sells in the United States is all purchased from other Standard concerns. (p. 308.)

STANDARD OIL EXHIBIT NO. 26.

The following interesting excerpts are taken from "Report of the United States Commissioner of Corporations on the Petroleum Industry. Part II:"

SECTIONAL PRICE DISCRIMINATION.

Prices and profits of Waters-Pierce Oil Company in its several divisions.—The best evidence regarding the practice of sectional discrimination is derived from records of the Waters-Pierce Oil Company (a Standard concern). The evidence is conclusive because these records show not only the difference in price, but also the differences in profit among the several divisions of the company's territory.

In 1896 the Waters-Pierce Oil Company lost 1.3 per gallon on all oil sold in the St. Louis division, while it made a profit of 2 cents per gallon *in the North Texas division*. This was a time of severe competition against an independent concern in St. Louis. In the next year, 1897, the company also lost in St. Louis, 0.5 cent per gallon *while in the North Texas division it made 3.8 cents*. The prices in St. Louis have continued lower than in most of the other divisions of the Waters-Pierce territory. During the first six months of 1904 the profit in the St. Louis division on illuminating-oil averaged 0.6 cent per gallon, while in the other divisions it ranged 1.8 cents to 4.4 cents (North Texas). [*Thus the people in North Texas who have worshipped so long at the shrine of Bailey, their Standard Oil Senator, have been paying the most extortionate rates of any in the country.*] (p. 30.)

STANDARD OIL EXHIBIT NO. 27.

PROFITS OF THE WATERS-PIERCE OIL COMPANY.

The Bureau has secured copies of records of the Waters-Pierce Oil Company, showing in detail the relation of its profits to the volume of its business and to its investment for a series of years. *The Waters-Pierce Oil Company is a subsidiary concern of the Standard, more than two-thirds of its stock having for years been owned directly or indirectly by the Standard Oil Trust and its successor, the Standard Oil Company of New Jersey.*

The capital stock of the Waters-Pierce Oil Company has for many years been \$400,000, but it has accumulated a large surplus from its own earnings and invested it in extending its business, so that the value of its property materially exceeds its capitalization.

Profits in Relation to Capital Stock—The following table shows the annual profits of the Waters-Pierce Oil Company from 1878 to 1904, together with the amount of capital stock outstanding, the ratio of profits to capital stock, and the rate per cent. of dividends on capital stock.

Average capital (27 years).....	\$ 366,666.67
Total net profit (27 years).....	23,225,080.19
Average net profit per year (235 per cent. on capital)	860,188.16
Total dividends paid	16,685,906.69
Average dividends per year (169 per cent. on capital) .	617,996.54

The average capital stock outstanding for the entire twenty-seven years was \$366,666.67 (treating the year 1878 as a complete year). The total net profits during this period were \$23,225,080.19, or at the average annual rate of 235 per cent. on the capital stock. The total dividends paid were \$16,685,906.69, or at the rate of 169 per cent. per year on the average.

The table shows conspicuously the great increase in the profits of the Waters-Pierce Oil Company during recent years. From 1881 to 1888, throughout which period the capital stock was \$400,000, the profits did not exceed 100 per cent. on the stock, while from 1900 to 1904, they exceeded in each year 450 per cent., and in the last year were 698 per cent. From 1881 to 1893 the dividends never exceeded 100 per cent., while from 1900 to 1904 they were in each year 400 per cent. or more reaching 600 per cent. in 1904.

This table shows that the rate of profit of the Waters-Pierce Oil Company throughout the period covered has been altogether exorbitant, that it increased materially during that period. The amount of profits on the entire business was least in 1896, \$793,575.07. The profit for the last complete year, 1903, was \$2,699,818.68, while for the first six months of 1904 it was \$2,466,838.83, or at the rate of more than \$2,900,000 per year.

Notwithstanding the fact that the Waters-Pierce Oil Company has an even more complete monopoly in Mexico than in the United States, its profits in that country have not usually been as high as in the United States. (p. 539.)

It should constantly be borne in mind that these profits of the Waters-Pierce Oil Company are the profits on the marketing business only, and do not include the profits on refining or on the pipe-line transportation of the crude oil entering into the products sold to the Waters-Pierce Company by the Standard. The profits, particularly on petroleum oils, are remarkably great for a marketing business. Independent marketing concerns, even those which do largely a tank-wagon business, commonly say that they are satisfied if they can make a profit of 25 cents a barrel, or half a cent a gallon. The profits of the Waters-Pierce Oil Company on sales of refined oil, gasoline, and lu-

bricating oil have averaged fully four times that amount, and during some years were nearly six times. (p. 542.)

SIBLEY A STANDARD OIL DIRECTOR.

The Galena-Signal Oil Company, the greater part of whose stock is owned by the Standard Oil Company of New Jersey, furnishes practically all the railroads of the country with their entire supply of lubricants. The plant of this company is at Franklin, Pa. For a number of railroads the business is done through the Waters-Pierce Oil Company, another Standard concern, but the lubricants sold to them are manufactured by the Galena-Signal Company. [Page 94 United States Commissioner of Corporations Report of the Petroleum Interests, part I, shows that Jos. C. Sibley, Bailey's life-time pal, is a director of the Galena-Signal Oil Company.] (p. 670.)

Proportion of Railroads under contract with Standard Concerns.—In this investigation the Bureau of Corporations has obtained detailed statements on the purchase and use of lubricants for rolling stock from 94 (91-5 Ap.) railroads, all under contract with the Galena. Many of the statements cover the large systems of the country, each including a number of subsidiary lines.

In addition to these 94 companies, there are three important railroads known to be under contract with the Galena-Signal Oil Company, which together make up 3.5 per cent. of the locomotive and car mileage by all railroads. The remaining 5 per cent. covers a large number of small roads, most of which are known to be under contract with Standard concerns. *A recent newspaper interview reports the president of the Galena-Signal Oil Company as stating that his company has 98 per cent. of the trade with railroads in the United States and Canada.*

BAILEY PRAISES SIBLEY.

It seems that Joseph Sibley is the first of the Standard Oil magnates with whom Bailey became intimate, which he did early in his congressional career. Sibley is said to have presented Bailey with one or more fine horses on different occasions. In his testimony before the whitewash committee of the Twenty-seventh Legislature (House Journal p. 162) Bailey voluntarily gave Sibley the following certificate of character:

"My enemies have not been content to stop with dragging Mr. Francis, who was connected with me in a perfectly legitimate business transaction, into the political feuds of this State; but they have, also, attempted to stain the Hon. Jos. C. Sibley with their miserable accusations; although, as is shown by the letter, which Mr. Sibley addressed to the Speaker of the House, he does not even know what the exact nature of the quarrel is. In his letter, he speaks of his having been charged with procuring my assistance for the Standard Oil Company, showing that he does not know enough about the matter to

know that the controversy has arisen over the readmission of the Waters-Pierce Oil Company. [The two companies, doubtless, meant one and the same thing to Sibley.] I have known Mr. Sibley for several years, and I never knew a truer, or a more honest man; and I can not express my indignation at having him assailed before the country as an agent of corruption, simply because I happen to enjoy the honor of his friendship."

CHAPTER XVII.**EVIDENCE REVIEWED, ANALYZED AND DISCUSSED.****GOVERNOR DAVID R. FRANCIS RELATES INTERESTING STORY.****DAVID R. FRANCIS**

Ex-Governor of Mo., and President of St. Louis Exposition, a witness for Mr. Bailey, was sworn and testified (Bailey Invest. Com. Report, 1907, pp. 666-707), in substance, as follows:

Examined by Mr. Cocke:

I met Mr. Bailey soon after he was elected. Our acquaintance has been as close and intimate as the distance of our residence and the difference of our occupation would permit.

I knew Mr. Sibley as a member of Congress. When I first knew him he was a Democratic member of Congress and he is now a Republican member of Congress, as I understand. I knew him very well socially that is all.

BAILEY, FRANCIS AND ST. LOUIS EXPOSITION.

I first became connected with the St. Louis Exposition at the first meeting that was ever held to devise a plan for commemorating the one hundredth anniversary of the Louisiana Territory, and that was in May, 1898.

The first favorable congressional action was an amendment incorporated in the Sundry Civil bill approved June, 1900. That amendment appropriated \$10,000, and pledged the government to appropriate \$5,000,000 to aid in that celebration, provided in the meantime the city of St. Louis secured to the satisfaction of the Secretary of the Treasury \$10,000,000 for the same celebration that the government pledged \$5,000,000. Congress adjourned very soon after that. This was in 1900. Some time in June.

I had considerable difficulty in inducing Congress to take favorable action on this proposition. The second Legislation favorable to the Exposition was March the 3rd or 4th, 1901—the bill appropriating \$5,000,000. That was the second favorable Legislation. I went to Washington in February, 1904, and asked Congress for a loan of \$4,500,000.

Mr. Bailey said to me that he did not believe in the Government loaning money any way; that furthermore, he had specific objections to the bill because our exposition in its cattle awards had not given Texas any show. I said, "We will pay back the money." I finally said to Mr. Wortham and Senator Culberson and Mr. Bailey, "I will see that special awards are made for Texas cattle, exhibits to be made the 15th of November, and we will hang up \$30,000 for that busi-

ness." Senator Culberson asked me if I had any objection to that provision being made in the loan and I said no. At any rate, the amendment was framed, I think by Senator Culberson, met my approval and was put in the measure. When it came up to the Senate Senator Culberson was asked if he had any objection to the measure or if his objection had been removed, and he arose and said it had been, as I understood him. Senator Bailey was out of the room; I was in the gallery watching these proceedings with great interest. Senator Bate, whom I knew well, and who opposed the measure on constitutional grounds, arose and went into the cloak room; just before the matter was to be put, the question was to be put to a vote, Mr. Bailey emerged from the cloak room with Senator Bate, and spoke against the measure. That started a debate which continued from two to five days. After a while the measure was passed; I was delighted that it was passed and I was very much provoked at Senator Bailey for his opposition. I will tell you the truth, I don't know that that had anything to do with this, but that possibly estranged us for six or eight months—we didn't meet so often. I felt that his opposition was too active, he ought to have voted against it if he wanted to.

Q. Did he make any speeches against it the first time?

A. No. No, there was no talking on it the first time, it was simply an amendment to the Sundry Civil Bill. That is when the \$10,000 was first appropriated and a pledge given for \$10,000,000. [In other words Bailey was not willing to have the government loan the Exposition \$4,500,000, although Francis had secured his silent acquiesce, so to speak, in an absolute donation of \$10,000,000 and the fact that Governor Francis thought he was entitled to Bailey's silence is clearly shown in the foregoing statement by him to the effect that they became "estranged for six or eight months."]

Q. When did you speak to Mr. Bailey with reference to his attitude towards your exposition in the matter of its legislation?

A. When I first went to Washington I spoke—

Q. When was that?

A. Well, I first went there on the 22nd of February, 1899. I remember that because on that day the exposition projectors organization had been formed at that time, gave a dinner at the Arlington to all of the members of Congress, both Senate and House, from the Louisiana territory, and I presided at the dinner. Although I do not remember specifically talking to Senator Bailey, I must have done so because I had talked to every member of each house whom I met who would listen to me.

Q. Do you remember, Governor, of having talked to him specifically thereafter during that year?

A. Oh, yes; I met him, gentlemen, I talked to him a number of times and reasoned with him, this will benefit Texas, and this belongs to our section of the country and you must not oppose it, but I never had any influence with him.

Q. That you wanted to have?

A. That I wanted to have, no.

Q. Well, you undertake to say that you did not have some influence with him, Governor?

A. Well, I will undertake to say that I had no influence with him other than what any man would feel, just a hesitation to openly fight what a personal friend is very much interested in, but I never could induce him—

I don't remember when my financial transactions with him began. The first record that I can find in the copy book of any financial transaction with him or any statement was in July, 1900, but I know I had financial transactions with him before that. I deeded the land to Barnett Gibbs on the 10th day of July, 1900. My first conversation with Bailey on the subject of this land deal began the latter part of '99 or the early part of 1900. [That was while Francis was in Washington trying to secure favorable congressional action for the St. Louis Exposition.]

A FAMOUS HORSE DEAL.

Mr. Bailey and I bought a horse—I think that was in 1899. Mr. Bailey wrote me he had bought a horse for us jointly, and he had drawn on me for one-half the cost or the whole cost. I never heard the name of the horse. I never knew from whom he bought it. I think the price was \$1,200 or \$1,500. I don't know what became of the horse. To the best of my recollection it was either in '99 or the very early part of 1900.

Q. Well, it may or may not be material—did that amount to a loan, Governor, the draft that was drawn on you and afterwards returned, did it amount to a loan?

A. No, sir; it didn't amount to a loan.

Q. Did you ever get a bill of sale for that half horse?

A. No, I didn't need a bill of sale for it.

Q. Did he consult you about buying the horse before he bought him?

A. No.

I want to say to you, sir, that Mr. Bailey wrote me that he had bought a horse for our joint account and he had drawn on me and I can't remember today whether it was half the purchase price or all the purchase price. I paid the draft and wrote him that I had enough horses and that was all right, but I didn't think I wanted any more, and he wrote back something which I do not recall. It was a matter I didn't think of.

Q. The first intimation you had of going in the horse business with him was the fact of his drawing a draft on you?

A. He may have talked about it before, he may have talked about buying a horse jointly with me, something of that kind, I don't remember whether he did or not.

Well, I can find out for you and when you are in St. Louis next week I will furnish you the information if you think it is relevant.

Q. Well, its relevancy or irrelevancy depends upon a man's view, and theory of this case, whether it is the loan theory or otherwise and whether these loans affected legislation.

A. Well, it was not a loan. I want that understood. I did not consider it a loan to Mr. Bailey; I consider I had paid half the purchase price of that horse and that I owned half the horse, that is what I considered it.

Q. But, now, you say you don't know but what you may have paid the whole price?

A. Well, I may have done so, I don't remember, but if I did he owed me the other part.

Q. Oh, I see.

Q. Now, Governor, do you remember Mr. Bailey's attitude towards the appropriations for the benefit of the Chicago Exposition?

A. No, I do not. I was in Washington attempting to secure that exposition for St. Louis and when it was fixed at Chicago I took no further interest in the Legislation.

Q. Don't you know as a matter of fact, Governor, and didn't you know at that time?

Mr. Wolfe: What has that to do with this?

The Chairman: Not a thing.

Mr. Wolfe: Let it go.

Q. At the time you were seeking to get your enterprise endorsed by Congress that Bailey had been violent in his opposition to legislation to aid the Chicago Exposition?

A. No, I did not, but if I had known it I would simply have gone to Mr. Bailey and asked him for his aid in the Louisiana Exposition.

Q. Governor, before we leave entirely the legislative legislation in favor of your exposition, I want to ask you if it isn't true that shortly after you returned to St. Louis and favorable action of Congress towards your exposition, that in the *Globe-Democrat* you came out in an interview to the effect that the credit for such Congressional action was due more to Joseph Sibley and J. W. Bailey than any other members of Congress?

A. I don't think I could have made such a statement, because it wasn't true. I don't see—

Q. Well, do you deny you gave out such an interview at the time?

A. I do not deny that the paper published it, but I deny that I said at any time that Mr. Joseph Bailey and Mr. Joseph Sibley were more instrumental in securing favorable action than any other members of Congress.

Q. What did you say about them and their attitude?

A. I don't remember what I said about them and their attitude.

Q. Well, do you regard Mr. Bailey's failure to actively oppose your measure as conducive to its passage?

A. His failure to oppose it as conducive to its passage?

Q. I mean to oppose it aggressively.

A. Yes, sir; to the extent any man of equal ability and influence by active opposition could have placed opposition in the way to the passage of the measure. I don't know whether he opposed that actively in the House or not. I know he did not support it, and I never could induce him to support it.

Yes, sir; I was president of the enterprise and devoted six years of my time to it, and gave fifty or sixty thousand dollars of my money without getting a cent back and expecting nothing, either directly or indirectly, except the general increase of values of the country and throughout St. Louis like everybody enjoyed. Of course, that might be injecting a stump speech into it—

Q. Well, I might reply to that, Governor, about the rumors I heard about some accounts.

A. Well, you will not make that insinuation here, either. I want to be protected here, and if I can't be I will protect myself. And I say this, those accounts have been examined time and time again by expert accountants and submitted to the government.

Q. It isn't customary for a witness' testimony—

A. It isn't customary for such slurs to be made as that either.

Mr. Wolfe: I object to it, and I ask the Chairman to put a stop to it.

The Chairman: I have been trying to do it ever since we began this meeting, but I haven't been able to.

\$100,000 GIBBS RANCH DEAL.

The Witness Francis: I did assist Mr. Bailey to buy the ranch sometime during the latter part of 1899 or the first part of 1900. Mr. Bailey said to me that he had an opportunity to buy a very valuable tract of land near Dallas, Texas, and he wished me to join him in the purchase. I replied that I would like to do so but I was, at that time, very much spread out in a number of enterprises and in the next place I already had as much land in Texas as I cared to own. It was 27,000 acres in Pecos county and about 56,000 in Clay county. He thereupon suggested that he could use that land, or some of it, in the purchase of the Gibbs ranch. "Well," I said, "That is rather attractive. I have no objection to doing that. Whether I go into this ranch purchase with you or not you may use this land, I will deed it to you, or to anybody you designate, as part of the purchase price of the Gibbs ranch." [Remember that Francis was trying to induce Bailey to support his World's Fair legislation and if not to support it, to at least, refrain from aggressively opposing it as Bailey had opposed the donation to the Chicago exposition.]

I find, upon looking over my papers after deciding to come here, that I did deed that land to Barnett Gibbs some time in June, 1900. I only know that Mr. Bailey bought the Gibbs ranch; that it was deeded to me; that I gave him the use of the ranch in Pecos county; that in order to secure me he had the Dallas county land deeded to me.

It was previous to April, 1900, but how long I cannot recall, that Senator Bailey, then Congressman Bailey, began to talk to me about the purchase of the Dallas county ranch. I simply said to him you can use the land.

Mr. Bailey and I had long conversations whenever we met, on various subjects. We would talk politics and we would talk business, and he said that he was negotiating for or could buy, I don't know which, a large ranch from Barnett Gibbs near Dallas, Texas, and he wanted me to join him in buying it, I mean take an interest, and I did not say I would not in the beginning.

I told him then, I think when we had the first conversation, if I didn't go in with him in this, I will let you put the land in.

It was previous to April, because I will tell you why I recall it. I recall it in this way, that I would not have presumed to wire Bailey to come to St. Louis if I had not felt that I had offered to do him a kindness and that our relations were justified, so it must have been previous to April. That is the only reason I can give for it.

[From this it would appear that Francis himself recognized the fact that he did have some claim on Bailey and that claim was based upon his proffered financial assistance to Bailey while seeking the latter's congressional influence. It is evident from Francis' own words that he would not have introduced him to Pierce except for the fact that their "relations were justified." Francis knew his man, knew what Pierce needed, to-wit: as Johnson expressed it, "A lawyer possessing personal and political influence."]

FRANCIS AS A GO-BETWEEN.

The witness Francis: I saw Senator Bailey in St. Louis in April, 1900. I may have seen him elsewhere, I don't remember, but I know *I wired him to come to St. Louis at that time*—between the 20th and 25th of April, 1900.

Q. Do you know whether or not he was then already on his way to St. Louis?

A. No, I do not. I only know this, that I wired to Washington to Senator Bailey to come to St. Louis, I wished to see him. His secretary or some one there wired me that Mr. Bailey, not Senator then, was in Gainesville. I thereupon wired him in Gainesville to come to St. Louis. He replied he would be there at a certain day on his way to Washington. He arrived, I don't remember the day of the month, but I know that on the same day he arrived I was compelled to leave to fill an engagement I had made at Houston, Texas, to attend the Trans-Mississippi Commercial Congress, which met there in April, 1900, and I think it met April 30th.

My object in wiring Mr. Bailey to come to St. Louis was to introduce him to Mr. Pierce.

PIERCE IN TROUBLE IN TEXAS.

Mr. H. C. Pierce has lived in St. Louis about as long as I have. I went to St. Louis in 1886 when 15 years of age, and went to school for four years, and then went into business. When I first knew of Mr. Pierce he was in St. Louis in some bank, I have forgotten what bank it was—it afterwards went out of business. We were not in the same business. We met each other very seldom. In the course of time the Waters-Pierce Oil Company was formed. I knew Mr. Waters and I knew Mr. Pierce, but did not know either one of them very well, both older men than myself. Mr. Pierce might deny that today, but it is true. I never had any business relations with them of any kind, but I suppose dating from about 1880 I had social relations with Mr. Pierce, mainly through our both being members of the same clubs. During the latter part of the nineties Mr. Pierce was president of the St. Louis Club, a social organization of that city, and I was first vice-president. We built a new club house, the one now occupied by the club, and both being on the building committee, we were thrown more or less together. We also belonged to two country clubs of limited membership one of fourteen members and one of twenty members, and in that way we knew each other socially very well. I never had a business transaction with him in my life that I recall now, not up to the present time even. Some time in April, 1900, he 'phoned to my office to know if he could see me. I replied yes, and he came down. He said, "I have trouble, the Waters-Pierce has had or is having trouble with the State of Texas," and he said, "The lawyers that I have don't seem able to accomplish what I want, don't seem able to help the situation, and I want you to recommend some Texas lawyer to me." I says, "What is your trouble?" Well, he must have told me but I do not recall it. "Well," I said, "If I wanted a lawyer in Texas, I would get Joe Bailey." He says, "What, that politician?" I says, "You may call him a politician or not, but he is a lawyer; he may be a good politician, too, but he is a good lawyer." Well, after talking some few minutes longer, he asked me if I could bring Bailey to St. Louis. I said, "I think so; I will try." I then wired to Washington and when advised that he was in Gainesville, I wired Gainesville, and he replied he would be there on a certain day on his way to Washington. I told Mr. Pierce Mr. Bailey would arrive on a certain day, but I had to leave that same day, and I either gave Mr. Bailey a letter to Pierce or Mr. Pierce a letter to Mr. Bailey. I left about noon on that day, according to my recollection, and I saw Mr. Bailey a few minutes before he arrived, I mean before I left. I don't recall whether I went to Mr. Pierce's office with Bailey or not. At any rate I was the cause of their getting together, and that is all I know about it. I believe he [Bailey] did tell me that he told Pierce the only way he could come back into Texas was to disband the old Company and organize a new one. I think he told me that very soon after he was down here at Austin the first time.

GOVERNOR FRANCIS FATHERS THE RE-INTRODUCTION OF THE WATERS-PIERCE OIL CO.

Q. Now, Governor, in your examination in chief, you assured the committee you had no part or parcel in the influence if any procured by the Waters-Pierce Oil Company in its reintroduction in Texas?

A. I did. I reaffirm it.

Q. That I apprehend is a conclusion of yours, and while you doubtless felt that way about it as you do not—

Mr. Hanger: Now, I object to this man lecturing here. If he has a question let him ask it. He has no right to subject him to an argument.

The Chairman: Ask the question.

Q. Governor, I am trying to put a legitimate question as I apprehend and I think this record will bear me out that there are more stump speeches and harangues coming from the other side of this investigation than from us.

The Chairman: Just ask your question.

Mr. Hanger: We will discuss that later.

Q. Well, lets leave that now. I was going to ask you, Governor, despite these expressions we have just gone over, if it is not a fact that you was the immediate agent between Mr. Pierce and his company and their troubles and whatever influence, whether legitimate or illegitimate, that was brought to bear in the settlement of these troubles in Texas?

A. I was only agent to the extent of introducing Mr. Bailey to Mr. Pierce and Mr. Pierce to Mr. Bailey.

Q. Then, if it was through Mr. Bailey's influence, political or legal, legitimate or illegitimate, that thing was obtained, to that extent you did participate in the re-introduction of the Waters-Pierce Oil Company into Texas?

A. To the same extent that I would be in the crying of a boy whom I begot.

Q. I don't think it is material—now you deeded this land to Governor Gibbs in July after you had these negotiations with Mr. Bailey through the winter of 1900?

A. In 1899 and 1900, yes, sir.

Q. Now, Governor, you say that when Mr. Pierce talked to you in April, you wired Mr. Bailey?

A. Yes, sir; April, 1900.

Q. Yes, sir?

A. Yes, sir.

Q. Can you tell the committee in substance what was in that telegram?

A. No, I can not, I can furnish the committee a copy of it, though.

Q. Do you mean after you return home?

A. I think all the telegrams stated, come to St. Louis at once; wish to see you on important business.

I think he came to my office. My recollection is that I did go with him to Pierce's office, but I won't say that. I remember it was raining very hard that day and whether I went with him to Pierce's office, I don't know. I don't recall definitely but if I did go with him to Pierce's office, I did not participate in the conversation more than a minute or two because I was preparing to leave the city, and I left that noon.

PIERCE AND FRANCIS DISCUSS BAILEY AND RESULTS.

The Witness Francis: It must have been some time afterwards that I talked with Mr. Pierce [again] about his troubles in Texas, and Mr. Bailey—it must have been some months. I forget whether Pierce brought up the subject or I did, but he said to me that "Your friend Bailey is a very able man." And I said to him, "I told you he would be." He made some remark then about Bailey going to Austin with him—but this was in a social gathering where there was a half a dozen men and I never had any private conversation with Mr. Pierce on the subject. This was a desultory conversation in a company of five or six men.

Q. Was anything said in that conversation or any other conversation had during that time by Mr. Pierce, about Mr. Pierce having loaned Mr. Bailey any money?

A. Yes, sir.

Q. What was said about Mr. Pierce?

A. Mr. Pierce said Mr. Bailey had loaned him money, I mean said he had loaned Mr. Bailey some money.

Q. Uh-huh?

A. Told me so at that time, at that conversation; that is the only time he ever did mention it to me.

Mr. Bailey directed me to pay him.

Q. Did Mr. Bailey give you the money to pay him with?

A. I don't know whether he did or not—I don't know whether he did or not, but it wouldn't have made any difference whether he did or not, I should have paid him if he had told me to.

Q. Loaned him the money?

A. Yes, sir.

Q. Did you have any talk with Mr. Bailey about this loan, between the time it was made and the time you paid it?

A. No, I did not, and I never knew that Pierce had loaned Bailey any money until Pierce told me.

Q. And that must have been in the interim?

A. Yes, sir.

Q. Of its loaning until your payment of it?

A. That was between April 27th and November 22, 1900; Pierce told me in this conversation I am talking about, in the presence of four or five, six or seven.

Q. Who were the men?

A. I can not recall who they were.

Q. None of them?

A. It was in one of these clubs.

Q. None of them?

A. No, I can't recall none of them. Pierce said, "I loaned Bailey some money." I will tell you the conversation: I said, "How did Bailey serve you?" He said, "He served me well, he is an able man, I think a great deal of him." "Oh," I say, Clay, Bailey tells me he refused to charge you anything." I says, "You are not going to let Bailey do all the work for nothing, are you?" He says, "Bailey borrowed some money of me," and he gave me the amount then, but I do not recall it, I did not recall it until I looked at my letter book a few days ago. It was a great surprise to me, because I didn't know Bailey borrowed any money from him. When Pierce told me that he had made Bailey a loan I dropped the subject with him. There were five or six other men present.

Q. You didn't like it?

A. No, I didn't like it.

Q. It didn't look good, did it?

A. Well, I didn't want Pierce to tell it before five or six other people, I didn't want him to tell it, it wasn't very business like. What I was doing was guying Pierce about letting a man work for him and not paying him, and I said: "This whole thing is charged up to me and I don't propose to be left in that position, and you ought to pay this man." I didn't say it in those words, but I said: "You are not going to let this man do all this work for nothing, are you?" Now I want to tell you about Mr. Pierce. I have known him for a long time, I don't think I have seen Pierce three times in six years. Mr. Pierce was director in the exposition from its organization in March, 1901. He never has attended a meeting of the Board of Directors from that time to this.

Q. Is it possible that after your castigation or your jeering of Mr. Pierce—

A. Well, I would call it a tilt, Mr. Cocke.

Q. Well, put it as mild as you like.

A. It was guying, as it were.

Q. That Mr. Pierce, in order to straighten the matter up with you and carry out his plans with Mr. Bailey, took that money and gave it to Mr. Bailey and had him give it to you to be returned to Mr. Pierce, in order to take up that note?

Mr. Wolfe: I just believe I will object to that.

The Chairman: He is asking if it is possible, it is not a proper question.

A. No objection to answering it, it is ridiculous to me.

Q. I think the other testimony justifies it.

Mr. Wolfe: I don't think it is competent.

The Chairman: You are asking if it is possible. Digitized by Google

Mr. Robertson: If he knows that to be a fact.

A. No, I have no reason to believe it at all.

Mr. Robertson: I would like to ask the witness one question right there; you say, Governor, that you are not able now to state where or from what source you received that money that was paid, or whether you paid it out of your own funds?

A. No, I can not; that's right.

No, not for that purpose beforehand, but it does show this, that either I had that money in my possession at that time belonging to Mr. Bailey or I advanced him the money and it was subsequently paid to me. That is what that statement shows.

Q. Your records do not show it came back to you?

A. No, none of the records show where it came from.

Q. They don't show where it came from or where it went back to?

A. No, sir; they do not.

Q. They only show that you were the medium by which the sum of \$4,800 reached Mr. Pierce for the account of Mr. Bailey?

A. Yes, sir; that's what it shows, that's what it does show.

Q. Kindly refer to that letter again, returning the money to Pierce.

A. Yes, sir, November 22, 1900.

Q. What is the next letter where you wrote Mr. Bailey?

A. Oh, I wrote Mr. Bailey that same day seven pages further on.

Q. Now, you had read down to the receipt and voucher, now, I want you to refer to the next language there after that.

A. Yes, sir—"which the voucher designates as 'a demand loan.' " Demand loan is quoted—"and your sight draft on him dated Gainesville, Texas, June 13, 1900, for \$1,500." That is the end of the paragraph, of the sentence and paragraph.

Mr. Robertson: Is that dated Gainesville, Texas?

A. Yes, sir.

Mr. Robertson: June 13th?

A. June 13, 1900.

Q. Sight draft?

A. Sight draft on Pierce, individually.

Q. By Bailey?

A. By Bailey, that is what this shows, this says.

Q. Dated Gainesville, Texas, June 13th?

A. 1900, that's right, that's right. I have no recollection of it whatever, other than this. I don't remember or recall a thing about it.

Q. You are in the same attitude on that as you are with reference to the demand loan and receipt or voucher?

A. Yes, sir.

Q. Do those records disclose any further?

A. The records I have with me do not. I have looked all through this book to find out what authority I had to pay this \$4,800 and if I

don't find any I conclude Bailey must have given me those instructions verbally.

Q. Do you remember Mr. Bailey being there in St. Louis in November, 1900?

BAILEY SAID HE PRACTICED INFLUENCE FOR PIERCE.

The Witness Francis:

Q. Well, this canceled check for \$4,800, if you find it for us in St. Louis, won't disclose the source of the fund?

A. Oh, no. It will simply show I drew a check against my private bank account for \$4,800. I can find that easily and I will send you that, give you that in St. Louis if you wish.

Q. Well, the committee will be there next week—now, in this conversation you had with Mr. Pierce, the first one, when he telephoned you in April, 1900, did he go over with you somewhat in detail the need, that is, the necessities, his necessities and the necessities of his company?

A. I don't think he did, because—

Q. Did he say anything to you about Rockefeller and that crowd being under indictment at Waco along with himself?

A. Not that I recall, at all, not that I recall.

Q. Well, did you recommend Mr. Bailey to him for his legal ability or for his political services and influences?

A. I recommended him for his legal ability; I did not—

Q. But Mr. Bailey told you afterwards he considered it a matter of influence?

A. Well, he told me he didn't feel he could charge him anything for that, but that was influence, and he didn't practice influence.

Q. Did you know that—were you acquainted with Judge Clark of this State at that time?

A. Yes, sir.

Q. Mr. Pierce told you he had exhausted all the legal power that he had employed in an effort to stay in Texas?

A. Well, he didn't say exhausted, exactly, but he said those fellows didn't seem able to do what he wanted done, he wanted somebody else. I don't remember that he told me what the trouble was, although he might have done that, too.

Q. How long did he—can you remember how long he remained in your office at that time?

A. Oh, no, but it must have been half an hour, or may have only been fifteen minutes, I don't remember. He telephoned me to know if he could see me if he came down. I don't remember that he has been in my office since, or I in his.

A. Yes, sir.

Senator Looney: You were asked a question a while ago, the intimation being this \$4,800 might possibly have been paid by Mr. Pierce to Mr. Bailey and Mr. Bailey to you, and you back to Mr.

Pierce again—now, I want to ask you if you would have permitted yourself to be used in any such subterfuge as that?

A. No, sir, not knowingly. I have told you all I know about the payment of that \$4,800. I was perfectly astounded when I saw yesterday I had paid it, and have looked through these books to find out by what authority I had paid it, and I could not find out any way.

JOE SIBLEY AGAIN.

Mr. Sibley told me that he voted for the World's Fair appropriation.

Q. Do you know anything about Mr. Sibley's alleged oil connections?

A. No.

Q. You have no personal knowledge of them?

A. No, I didn't know he was suspected of being—

Q. It is in the record here that he is an oil man, and a Standard Oil man at that.

ED BUTLER, THE ST. LOUIS GRAFTER.

The witness Francis:

Q. You know Mr. James Campbell of St. Louis?

A. Yes, sir.

Q. Have you had any business transactions with him, that involved Mr. Bailey's action in any way?

A. No, no, none at all. Never had any business relations with Campbell that involved—

Q. Do you know whether he and Pierce were intimately involved in business?

A. No, I do not. I have heard each of them accuse the other, talking with me. I don't know whether there is any business relations or not—of course, I don't want that put in the record either.

Q. Did you ever know of any alleged backing by Mr. Campbell to furnish the famous Ed Butler, of St. Louis, financial assistance?

A. No, I didn't know of any backing Campbell furnished Butler. I didn't think Butler needed any financial backing. Campbell is amply able to furnish any backing. He is a rich man.

FRANCIS' BUSINESS CONNECTIONS.

Mr. Bailey never did any legal service for me that I recall, in any way. I was interested in the Tennessee Central Railroad to a very little extent, and I was always sorry I was. I heard Mr. Bailey had been employed by the manager of the property, the man who owned a large control, but he never represented me any since that I talked to him about it at all. He never had anything to do with any letters, any litigation, which brought him in actual touch with me. I am not a lawyer myself.

Q. Governor, what business are you engaged in?

A. Well, I am engaged in a good many kinds of business just now, and I may say five years, 1901 to 1906 all my time and attention

was given to the St. Louis Exposition. During that time I was at the same time interested in the house in St. Louis which I founded in 1877, Francis, Brother & Company, which deals in grain, bonds and stocks. I am the senior member of that house—the business is run by my son. I devote a good deal of my time every day to the two financial institutions in St. Louis in which I am a director and whose meetings I attend daily. I am furthermore interested in a number of buildings in St. Louis, office buildings and so forth and I dabble in real estate, and I build railroads, electric and steam, buy them and sell them as a dealer and on commission, and most any kind of an enterprise that is brought in. I think I am considering now buying three or four hundred acres of land with two or three hundred houses on it. I have an electric road on the east side of the river, in which I am a director and largely interested, and I am employed to a greater or less extent now in building a steam railroad from Joplin, Missouri, to Helena, Arkansas, and a good many other things that I am interested in that I cannot recall just at the moment.

I am nominally a director in two railroad companies, I am virtually a director in one. By nominally, I mean that my name is on the board of directors of the St. Louis, Kansas City and Colorado Railroad, which is the St. Louis-Kansas City connection of the Rock Island system. I sold that road to the Rock Island people in 1902. They have kept up their legal organization and I am one of their directors. I am also a director, but only own about five or ten shares of stock in the branch of the Chicago and Alton, which goes through Missouri from Kansas City to Louisiana. I am really a director in the Missouri and North Arkansas Railroad, in as much as I have a good deal to say about its policy and construction. That is a road which has 126 miles of road running now from Seligman, Arkansas, in a southeasterly direction to Leslie, Arkansas, and so we are extending it to the Mississippi River on the east and to Joplin on the west. I am also a director in an electric road, in the East St. Louis and Suburban, which owns 175 miles of track running through East St. Louis, Granite City, Venice, running to Alton, Bellville, Illinois, Lebanon, and so forth. Those are all the railroads that I recall just now that I am a director in. I am a director in a number of other corporations, banks, trust companies, insurance companies, and so forth—not a number of others, three or four others.

SOME INTERESTING CORRESPONDENCE BETWEEN CLAY (PIERCE), DAVID (FRANCIS) AND JOE ("COAL OIL JOE").

The following interesting correspondence between David R. Francis, H. Clay Pierce and Joseph W. Bailey, as per Francis' letter copy book, will be found in the Bailey Invest. Com. Report, 1907, pp. 680-694.

FROM FRANCIS TO PIERCE.

St. Louis, August 17, 1900.

"Mr. H. Clay Pierce, Pride's Crossing, Mass.

"Dear Clay—I regret and am somewhat surprised, that you did not see me before leaving St. Louis for the East.

"Our friend Bailey, it appears, has been violently attacked in Texas for his efforts in your behalf. In a letter from him today, in reply to one I wrote him, stating I would hold myself subject to his command, and if he desired would go to Texas in order to defend him against malicious and unjust charges, he writes that he is able to take care of himself 'against the miserable wretches who are so desperately trying to destroy (him) me.' He says he will be here tomorrow.

"He writes he has charged you no fee, nor does he say he proposes to do so, continuing to attribute his entire action in the matter to friendship for me. You can readily see how this embarrasses me, and how difficult it becomes for me to fail to readily comply with any request he may make. I have no suggestion to make in this connection at this time, but write this letter mainly for the purpose of impressing upon you the position in which you have placed me. I told Bailey he should charge you a fee, because it was far from my intention to involve him in any trouble or inconvenience, to say nothing of the political embarrassment, when I asked that he look after your interests in his State.

* * * (This part of the letter is omitted as it does not pertain to the matters in question.)

"Respectfully,

D. R. FRANCIS."

From the above letter to "Dear Clay" it will be observed among other things that Francis wanted to avoid the embarrassment and difficulty of failing "to readily comply with any request he (Bailey) may make." Perhaps David R. was fearful that Bailey would strike him for a loan or require of him a purchase of another \$100,000 ranch. Of course, it is impossible to tell just what Francis meant but it is evident he did not want to have his "friendship account" with Bailey charged up with so important and so valuable a service as that rendered by Bailey to Pierce. Of course, Bailey was playing Francis false, up to that juncture, by not telling him that Pierce had paid him a fee in the nature of a loan.

LETTER FROM FRANCIS TO PIERCE.

"November 22, 1900.

"Mr. H. Clay Pierce, City:

"Dear Sir—I enclose my personal check for \$4,800 payable to your order, in exchange for which please send me by bearer J. W. Bailey's receipts or due bills given you for like amount. I understand this to be the total of Mr. Bailey's obligations to you. If it is not so, please advise me.

"Yours truly,

"D. R. FRANCIS."

LETTER FROM FRANCIS TO BAILEY.

The following letter from Francis to Bailey just at the time that Stribling was in St. Louis and all the financial and legal matters connected with the re-admission of the Waters-Pierce Oil Company to do business in Texas were being settled and adjusted, discloses the fact

that the draft for \$1,500, which Bailey had so long and so vehemently denied, was, in fact, forwarded to him along with his "receipt of April 25th, 1900, for \$3,300," in order, doubtless, that Bailey might have in his possession the signatures that up to that time he had outstanding with Pierce or the Waters-Pierce Oil Company. In other words, they had followed the adverse criticism in Texas during the summer and were evidently preparing to obliterate any incriminating evidence that carried Bailey's signature on it. Ex-Senator Hanger was conducting the examination of Governor Francis, on behalf of Bailey in Odell's absence, and he did not seem to appreciate the significance of this letter until after it had gone into the record. The proponent of the charges immediately saw its great significance and eagerly welcomed its incorporation into the record.

"November 22, 1900.

"Hon. Joseph W. Bailey, Washington, D. C.:

"My Dear Sir—I today paid Mr. H. C. Pierce \$4,800 and asked him to send me in exchange therefor whatever drafts or receipts for money made by you he might have in his possession. My letter also stated my impression was that \$4,800 was the extent of your obligation to him; but requested that he advise me if they were in excess of that amount. He made no reply to my letter other than to send me the enclosed, which I forward to you, the same being your receipt of April 25, 1900, for \$3,300, which the voucher designates as a 'demand loan,' and your sight draft on him dated Gainesville, Texas, June 13, 1900, for \$1,500——" * * *

"As Congress will meet on Monday next, you will no doubt remain in Washington until about the holidays. Keep me advised as to your movements. With best wishes I am

Respectfully,

"D. R. FRANCIS."

In connection with the above letter Mr. Francis said: "This letter was a perfect surprise to me when I read it yesterday. I had entirely forgotten paying Mr. Pierce the \$3,300." The author believes that the reason he forgot it was because the payment was in fact never made. Of course, Pierce may have given Bailey the \$4,800 and told Bailey to give it to Francis for retransmission to Pierce either to satisfy Francis, who had been complaining about the matter, or else to lend color to the alleged repayment of the money to Pierce by Bailey. This conclusion is strengthened by the fact that Francis' books, while showing other monetary dealing with Bailey, were absolutely blank on this \$4800 item. Again the explanation above advanced is likewise confirmed by the fact that Pierce never returned this money to the Waters-Pierce Oil Company for all of Bailey's witnesses, the company's employees, testified that the money was never repaid to the company but charged off first to bills receivable, then to legal expense and finally to profit and loss. The author is inclined to believe that Pierce and Bailey put up a job on Francis by which Francis was made to appear as a go-between in the alleged payment of this money but which in truth and in fact was only a make believe scheme to cover up the real facts.

On page 689 and 692 will be found the following testimony by Francis.

Q. Governor, the \$4,800 mentioned in the letter of November 22, 1901, was that paid back to you by Senator Bailey?

A. Why, I can not tell anything about it from these books—I have looked all through here.

Q. I mean 1900.

A. I have looked all through these books and I can not tell. I can not tell you how that was paid back.

When I introduced Mr. Bailey to Mr. Pierce, I felt I was conferring a favor on Mr. Bailey to as great extent as I was upon Mr. Pierce.

You understand I was a very busy man and when I was writing Mr. Bailey, enclosing these due bills or notes, or whatever you may term them, that Pierce had sent me, it seems I only described two of them. That may have been all there was, but I described them and sent them on to him, and do you know, I have talked about that loan, I have talked about that loan that Pierce made to Bailey in 1900 twenty times in the last six months, and I never knew until yesterday that I had paid the loan off when I read this letter. I had no recollection of it.

Q. Governor, had you ever had any talk with Mr. Bailey about the fact of this \$3,300 loan appearing in the books of the Company?

A. I don't remember to have ever had any talk with him, I may have had.

Q. You said this morning you had some conversation?

A. I did have a lot of conversation with him about charging Pierce, and told him he ought to charge Pierce, that is what I introduced him for, I didn't expect him to do all those things for nothing.

Q. You didn't expect him to be a lawyer free of charge?

A. Why, no—at the same time I was not introducing the man for influence. I was introducing a man at the bar for legal work, is what I understood, but Mr. Bailey when he told me—

Q. Well, now your letters show there—excuse me—

A. Let me explain—Bailey told me he considered it influence and he wouldn't charge Pierce for it, and I said to Pierce, "You are going to let Bailey do all that work for nothing?" and then Pierce told me of this loan, which I didn't like, I will admit. I didn't have any interest in it, except in Bailey, and I must have been delighted when I paid that loan off. I would have paid it if I had known he would have never paid it back.

Q. Governor, you testified to your friendly interest in Mr. Bailey and your admitted interest as disclosed by your letters, that there was a disturbance down here about that—doesn't it follow that you were making a point to personally see that this transaction was cleared up, so far as the records went, in order to protect Mr. Bailey?

A. I wanted to see it, yes, sir; I wanted to see it cleared up, mainly on Bailey's account. At the same time, I did not want to be mixed, I did not want to be responsible for Bailey's troubles in any way, I did not want to feel that I had involved him in them.

LETTER FROM FRANCIS TO BAILEY.

"St. Louis, Mo., May 15, 1901.

"Hon. Joseph W. Bailey, Washington, D. C.:

"My Dear Sir: Your note for \$8,250, due four months after February 4th, matured May 8th, and I was compelled to take it up. Your letter enclosing renewal note for \$5,000 and check for \$3,250, did not reach me until a day or two after. I enclose statement showing that I paid two days interest, or \$1.89, on the \$8,250. This memorandum also shows that there was due you \$179.17 on my books, and that the discount on the \$5,000 amounted to \$86.11, and stamps to \$1. This leaves a balance to your credit on my books of \$90.17.

"I enclose your 90 day note of February 4th for \$8,250, which is marked paid. The rate of interest charged on this note (five per cent) is unusually low, as money is now readily commanding six per cent on such paper.

"Will you please write me on receipt hereof what is the condition of my Pecos county, Texas lands, which I deeded for your accommodation to Barney Gibbs and which he deeded back to me subject to an incumbrance of \$8,000. You told me that the endorsing of the \$8,250 note relieved that land of any encumbrance? Are the records such as to show the land is now in my name free of encumbrance?

"What are you doing in Washington? Why are you not in Beaumont, Texas or the neighborhood, making a fortune on oil"—I don't know as it is important, but you want the whole letter—

Q. Read it all.

A. "You may know more about politics than I do, and may be more familiar with the situation, but you need some one to control your business affairs.

"Please answer this letter at your earliest convenience stating in detail the condition of my Texas lands.

Very respectfully,

"D. R. FRANCIS."

LETTER FROM DAVID R. FRANCIS TO JOS. W. BAILEY.

"August 2, 1901, St. Louis, Mo.

"Hon. Joseph W. Bailey.

"My Dear Joe: I am in receipt of a letter from a party asking at what I will sell my lands in Clay county. You told me some time ago that you had sold this land, but you did not state at what price, except as you said, for enough to get me out whole. I made no reply to your statement other than to say, as I have often said before, that the land is not in condition for me to sell until I make arrangements—" Now the balance of that, gentlemen. is something that don't pertain to this case at all.

LETTER FROM DAVID R. FRANCIS TO J. W. BAILEY.

"St. Louis, Mo., August 3, 1901.

"Hon. Joseph W. Bailey.

"Dear Joe: I am in receipt of yours of the 1st, and also telegram of this date. I have executed deed as requested and forward same today to C. E. Wellsley, Dallas. Enclosed you will find copy of my letter to him enclosing deed.

"You are correct in surmising that I am overwhelmed with business. I did find time, however, to write you a few days ago, and expect an answer to that letter within a day or two. * * *

"I am glad to hear you are getting in easy condition financially and sincerely hope you will remain so.

Yours very truly,

"D. R. FRANCIS."

Note the fact that by the year 1901 Bailey was "getting in easy condition financially." What a pity we have not his letters to Francis. It is possible they might have disclosed incidently some

of the sources of his newly found wealth. That was the year that he was forced to admit, when cornered on the stand, that he had received at least one fee of \$2,500 direct from the Standard Oil Co.

LETTER FROM DAVID R. FRANCIS TO J. W. BAILEY.

"St. Louis, Mo., August 10th, 1901.

"My Dear Joe: I am in receipt of yours of the 8th, and have this day signed deed as requested, and forwarded same to C. E. Wellesley. I know these transactions are straight, but the trouble about it is that I am not likely to live always, and it may be they will get my heirs in trouble. You will observe the deed acknowledges receipt of \$3,900. I desire you to understand that I have not received the \$3,900, and I so write Wellesley. I can not tell you how busy I am. This letter has been interrupted four times in its composition and it may not be intelligible to you. I have not time to sign it but it will be signed by my stenographer.

"Yours truly,

"D. R. FRANCIS."

LETTER FROM DAVID R. FRANCIS TO J. W. BAILEY.

"St. Louis, Mo., November 4th, 1901.

"Dear Joe: I enclose herewith notice of the Merchants-Laclede National Bank of your indebtedness to said bank, being your three months note for \$5,000, dated August 10, 1901. I have not time to write at greater length, as I can not tell you how busy I am. With kind regards, I am, very truly yours,

"D. R. FRANCIS."

LETTER FROM FRANCIS TO BAILEY AT WASHINGTON, D. C.

"St. Louis, Mo., November 9, 1901.

"Dear Joe: I am in receipt of yours of the 5th, enclosing check for \$5,000 to pay your note due at the Merchants-Laclede National Bank on November 13th. You had anticipated maturity, but it is better to do that than to wait until after it passes. * * * I am glad to have been able to accomodate you, and concluded that you must be in good condition as you were able to meet this obligation at its maturity. With best wishes, I am, very respectfully,

"D. R. FRANCIS."

"P. S.—Since writing the above I have put check in bank for collection without discount."

LETTER FROM DAVID R. FRANCIS TO JOSEPH W. BAILEY, AT WASHINGTON.

"St. Louis, Mo., Dec. 17, 1901.

"Dear Joe: Your draft for \$1,528.73 on me was presented today, but I did not have the money to pay it; consequently told the bank to return it to Dallas, and have written Mr. Farris that if he will hold it up for eight or ten days I will be able to take it up. If I should pay this it would compel me to borrow, and my credit is already strained."—It is a good thing this is six years ago, I would object to this being put in—"I hope this does not inconvenience you; if so, let me know, and I will immediately wire Farris to return draft and it will be paid. I have not time to write at greater length.

Yours truly,

"D. R. FRANCIS."

From the above letter it would seem that Bailey did not hesitate to draw on Francis at will and without notice, for any amount he might want. Of course, some of these dealings may have been free from any special criticism but they disclose a line of association on Bailey's

part, to put it most mildly, that put him under special obligation to such men as Francis, Pierce, Yoakum, Kirby and the railroad interests, all of whom and whose interests were more or less, antagonistic and subject to the control of the United States Congress.

TELEGRAM FROM FRANCIS TO BAILEY AT WASHINGTON.

"St. Louis, Mo., Jan. 31, 1902.

"Have just returned from Kentucky and seen yours 24th. Request complied with by this mail. D. R. FRANCIS."

LETTER FROM FRANCIS TO BAILEY AT WASHINGTON, D. C.

"St. Louis, Mo., January 31, 1902.

"Dear Joe: When your letter of January 13th was received I was in Washington, and when yours of the 24th arrived I was in Kentucky. Enclosed you will find New York draft for \$2,500, which you will observe has been ready for remittance to you since January 23rd. I very much trust that this delay has caused you no inconvenience. I have attempted to direct my men a number of times to inform people of my absence from the city when important letters are received, but it seems they will never learn the kind of letters to make replies to and the kind to ignore. I am busy as usual and have not time to write at greater length. This letter will be mailed in time to catch the train leaving at noon and should reach Washington by 5:30 tomorrow evening. Yours very truly,

"D. R. FRANCIS."

On page 688, Bailey Invest. Com. Report, 1907, Mr. Francis said: "You see my relations with Mr. Bailey were not kept in the same way my business house keeps accounts with its customers. This was a kind of a personal affair all the way through, it was my personal books. I do not do a money lending business at all, I do a great deal of borrowing, but I do not do a money lending business."

LETTER FROM FRANCIS TO BAILEY AT WASHINGTON, D. C.

"St. Louis, Mo., May 3, 1902.

"Dear Joe: Yours of the 30th ultimo enclosing draft on Dallas bank for \$2,653.75 received, and same has been put in bank for collection. I observed instructions to credit this on your note for \$7,653.75 and let note run with same collateral attached, which the Merchants-Laclede National bank has consented to do. That note will not mature until May 7th.

"I was sorry I could not see more of you in New York. I was in Washington only from 8 a. m. to 3 p. m. and went thence to Charleston, S. C., and returned to St. Louis on Sunday last. I hope this will find you in a flourishing condition, so far as happiness and politics affect you, as well as finances. I am rushed as usual but as soon as the exposition is over I think I shall take more rest. I observe that you have concluded to postpone the Fair for a year and I am sure now that we shall make it the greatest exposition ever known. With best wishes, yours truly,

"D. R. FRANCIS."

It will be remembered that Mr. Bailey was the leader of the Democratic minority on the floor of the House at the time Francis first began to seek his influence and to silence his opposition to the World's Fair in which Francis was so deeply interested and in which many millions of dollars were involved.

TESTIMONY OF J. D. JOHNSON, ESQUIRE.

Mr. Bailey having refused to take the stand, as he afterwards refused to be cross-examined not only by the proponent of the charges but by either of his attorneys, M. M. Crane or J. E. Cockrell, John D. Johnson, general attorney for the Waters-Pierce Oil Co., who voluntarily came to Austin to assist Mr. Bailey, was the first witness sworn and testified in substance (Bailey Investigation Committee's Report, pages 84-153), as follows:

I reside in St. Louis, Mo. I am the attorney of the present Waters-Pierce Oil Company, and have been since its organization in 1900. I was the attorney of the former Waters-Pierce Oil Co., for a number of years prior and up to the time of its dissolution. There was never a day for ten to fifteen years past that there was not a Waters-Pierce Oil Company.

I was associated with Judge Clark of Waco. [The same Clark who has always favored the corporations as against the people and who fought the late lamented and patriotic Hogg.] He and I were looking after all of that litigation. Final judgment perpetuating an injunction against the old company from doing business in Texas was rendered by the United States Supreme Court in February, 1900. From February, 1900, until May 28th, 29th, or 30th, 1900, the old company was waiting for developments. [Hoping against hope that by some turn of political fortune it might avoid the judicial decree of ouster which had been fought to the last appeal. They were waiting for some political Trojan to pull the political wires and allow them to continue to rob the people of Texas, as they had been robbing them for many years theretofore.]

The matter was taken up with the Attorney-General about the first of May. We hoped or anticipated that we might secure another license for the old company, and, failing in that, we had a plan in view by which the parties interested with Mr. Pierce [the Standard Oil crowd] should continue to transact the oil business of the State of Texas.

JOHNSON RELATES STORY OF BAILEY'S SEDUCTION BY OIL MASTER.

"For me, the gold of France did not *seduce*;
Although I did admit it was a *motive*."

—SHAKESPEARE; HENRY V.

Let me tell you the story of that [first trip to Texas by Bailey, Johnson and Pierce, the last of April or first of May, 1900], as I recall it. When the Supreme Court at Washington affirmed the judgment in the main case here, canceling the license of the old Waters-Pierce Oil Company, *we began, Mr. Pierce and I began looking around considering. Mr. Pierce wanted to employ some additional counsel who possessed personal and political influence.* It is very natural for clients to look around for good lawyers of that character. He had never met Senator Bailey, but was very favorably

impressed with him. [Doubtless so impressed through their mutual friend, Governor Francis, who well knew, on account of the World's Fair and Gibbs Ranch Deal, that Senator Bailey was for sale—not in a coarse, open bribe-take and bribe-give fashion, perhaps, but nevertheless for sale.] In talking the matter over with Governor Francis one day, Mr. Pierce determined to come down here and surrender himself on that indictment at Waco, so that he could give personal attention to it, and see Mr. Bailey here and make arrangements to employ Mr. Bailey on behalf of the Waters-Pierce Oil Company. *That was the understanding.* Francis had recommended Senator Bailey in April, 1900, to Mr. Pierce and offered to give Mr. Pierce a letter. [In the meantime, however, Francis had telegraphed Bailey to come to St. Louis. See Francis' testimony.]

Mr. Pierce obtained that letter from Governor Francis, and it was one of the best letters of the kind I ever read—D. R.'s best composition. [What irony and callous sarcasm.] That was to bring down here personally to Senator Bailey here, a letter of introduction. Before we left St. Louis, Senator Bailey arrived at St. Louis. [he could not wait for he needed a loan, insolvent stranger that he was at the hands of the oily money master], as I understood on his way to Kentucky, and Governor Francis introduced Senator Bailey to Mr. Pierce. I was not present at the time, and I believe that Mr. Pierce and Governor Francis, induced Mr. Bailey to forego his trip to Kentucky and come down here to assist Mr. Pierce, and an engagement was made between Mr. Pierce and Senator Bailey for Senator Bailey to meet Mr. Pierce and myself at Austin. In pursuance of that agreement, Mr. Bailey, I think, left St. Louis before we did and went to Gainesville. We came to Austin and Senator Bailey met us. That is the first time I met Senator Bailey; that was after Mr. Pierce had met Mr. Bailey in St. Louis and requested Mr. Bailey to assist in adjusting matters with the authorities here. I think we went in a private car to Austin and Mr. Bailey was to meet us.

Senator Bailey was not employed as a lawyer of the Waters-Pierce Oil Company in litigation in the Supreme Court of the United States previous to that time. Mr. Bailey was at Washington, but was not employed in that litigation, nor in any litigation that ever occurred afterwards in the courts. He did consult with me about the dissolution of the old corporation and its reorganization. I put the proposition up to Mr. Bailey as the ultimate recourse and Mr. Bailey approved of it.

We were desirous in the first place to get a license to the old company. We centered our efforts on that first. Mr. Bailey, I think, understood that. I discussed that question with Judge Clark and they both discussed that question with Attorney General Smith.

The only effect or result of Senator Bailey's friendly acts to Mr. Pierce were to accord to Judge Clark and myself and Mr. Pierce, a courteous and *considerate* hearing at the hands of the Texas authorities. *That is what we wanted.* [How soft and insidious!]

His purpose was to aid Mr. Pierce in his efforts to get his company and property out of a pretty bad situation. We were still up in the air. We had not decided what we would be able to do when we went to Waco [whether they would adopt bribery or other inducements to attain their ends], but we wanted a courteous and *considerate* hearing at Waco, in disposing of the litigation there. [And for this purpose they must needs employ, for his "personal and political influence," a then congressman and popular nominee to the United States Senate from Texas.]

We wanted to get right of the litigation. I explained to Senator Bailey the history of the Waters-Pierce Oil Company at the time we met him down here at Austin. I don't think he knew of it before [then how ignorant Mr. Bailey must have been not to have known of a matter of great public notoriety that had occupied the attention of the courts and of the press, both of Texas and of the nation, for four years, and, as a result of which, Texas had won before the courts but was about to lose through the perfidy and treachery of "personal and political" influence, then being exercised by her most popular public man—J. W. Bailey.] At the time Mr. Bailey met Mr. Pierce in St. Louis *I don't think the question of the Waters-Pierce Oil Company being a trust came up there at all.* I was not present when the money was borrowed. Mr. Pierce reported to me afterwards that he had made a loan to Mr. Bailey. My impression is that Mr. Pierce told me that Senator Bailey was going to Gainesville and would meet us at Austin. I think we came down by I. & G. N.

I met Senator Bailey in the room adjoining room 14, on the parlor floor of the Driskill Hotel in Austin, the first time. That may have been Senator Bailey's room that we were in.

PIERCE AND HIS TRIAL AT WACO.

We were anxious to get rid of that indictment without subjecting the parties to the humiliation of a trial. Our interview with Mr. Bailey here in Austin was quite brief. At the interview with him we went over the case in a general way or situation. He left to go to see Attorney General Smith and he came back and reported the result of his conference.

THE TRIO GO TO WACO.

Mr. Bailey did not go with us to Waco but he met us there oy appointment. The purpose of getting Senator Bailey to go there with us, as I said, was to get his good offices in securing to Mr. Pierce, Judge Clark and myself proper consideration, yes, proper consideration at the hands of Henry & Stribling [It seems he did "quiet" Stribling's "restlessness" but could not bribe Thomas.] *We were getting ready, trying to dispose of all that litigation to get rid of it on the best terms possible.*

Henry & Stribling were friends of his. It was to assure us proper

consideration or due consideration of Henry & Stribling. [Does this mean that Bailey's influence was invoked to make plain and easy the way, if necessary, for a proposition of "a loan," in the nature of a bribe, to these lawyers, or either of them, who were representing the State?]

CONFERENCE AT WACO, JUNE 1ST, 1900.

STIBLING BECOMES RESTLESS.

After we failed in our efforts with Mr. Thomas, the then County Attorney, to settle that penalty suit, we filed a motion on behalf of Mr. Finlay, Intervenor, who, as president of the old company at the time of its dissolution, under the statute of Missouri, was the statutory trustee of that company. The motion was in the nature of a plea in abatement, based upon the ground that the old company was dissolved. We tried it before Judge Scott who sustained it.

I do not know what "policy" I referred to in my letter to Judge Clark. It may have been to keep Senator Bailey informed in regard to the proceedings in Texas. Mr. Bailey was not an attorney in the case. Senator Bailey, however, very kindly undertook to aid in the dismissal of that case or a settlement of it on a fair basis. [Mr. Bailey has since said that this kind of a suit ought not to be compromised at all nor penalties collected, because he says, "If you fine them in the courts, they will fine the people in the markets." That is true, and yet Mr. Bailey was doing everything he could to get them off with the lightest expense possible and was trying to save his friend Pierce from the humiliation of a court trial on the indictment pending at Waco. Now he says that the trust masters should be wearing stripes. But what has he ever done and what is he doing now to help the people of Texas put stripes on H. Clay Pierce?]

There was an indictment against all the managers in Texas, of the Waters-Pierce Oil Company, against Pierce individually, and against all of the then trustees of the Standard Oil Trust. Judge Scott instructed the jury to find for the defendants [Judge Scott, whether right or wrong, has always stood by this crowd of boodlers.]

I have a vague recollection of having received a letter from Judge Clark in which he advised me that I had best have Mr. Bailey communicate with Stribling—something of that kind. I have a recollection about his saying, "Stribling is very restless and dissatisfied at the outcome here [Waco, Texas, June 1st, 1900], on last Friday, and threatened, privately, to have a Receiver appointed for the old company." I don't know whether or not that is his language but that is the substance of it. *Stribling claimed that the property of the new company was the same as the old.*

We had had a conference in Waco about June 1st, 1900, having left Austin the evening of the 31st of May, after we had obtained the license to the new company. The purpose of that conference was to see whether we could agree on a basis of disposing of the criminal cases, and of the penalty suit. The conference occurred in the af-

ternoon at Messrs. Henry & Stribling's office. I made an offer on behalf of the old Waters-Pierce Oil Company to settle that case by pleading guilty and paying a penalty of ten thousand dollars, *plus twenty-five hundred or three thousand dollars to the attorneys for the State*. Messrs. Henry & Stribling, who were sub-counsel under contract with Mr. Thomas' predecessor, Mr. Taylor, seemed willing to dispose of the case that way. Mr. Thomas refused to accept the proposition. The conference failed. It was the outcome of that conference with which Stribling was dissatisfied and restless and about which Judge Clark wrote me. I assume that it was, because there was nothing else he could have been dissatisfied or restless about.

CLARK-JOHNSON FAMOUS CORRESPONDENCE.

(J. D. Johnson's testimony continued.)

The letter dated St. Louis, Mo., June 16, 1900, addressed to Hon. George Clark, Waco, Texas, is signed by my stenographer. The letter dated St. Louis, Mo., August 2nd, 1900, addressed to Hon. George Clark, is signed by me. The letter dated St. Louis, Mo., November 12, 1900, addressed to Messrs. Clark & Bolinger, Waco, Texas, is signed by me. [These are the letters set out in full in the chapter entitled, "Standard Oil Exhibits" that disclose the conspiracy between Clark, Johnson, Pierce, Bailey and Stribling, whereby the Waters-Pierce Oil Company was enabled to circumvent the law and remain in Texas and whereby Stribling was to betray his attorneyship for the State of Texas.]

I assume that I had replies from Judge Clark to these various letters. They are with my files in St. Louis. [Witness offered to get these letters for the Committee but later on in his testimony, after talking with Judge Clark, refused to do so. Evidently Clark was not willing to have his practices exposed.]

I have been associated with Mr. Pierce since 1874, when I was representing him. I have authority, in connection with business in my department, to ask that money be paid out, and my request is generally complied with. The words, "S. D. drawn by Bailey for \$1,500," I surmise mean "sight draft." I was led to O. K. that payment by some statement made to me at the time. Whether it was Mr. Finlay or not I do not know. It was somebody in authority, I had nothing to do with it before it was put up to me.

If that telegram was shown to me, that was sufficient. If Mr. Finlay, who was then vice-president, in the absence of Mr. Pierce, had asked me to O.K. it, and stated the facts, I would have O.K.'d it. Mr. Pierce was away at that time at Nebagamon, Wisconsin.

Either the telegram, coupled with an explanation from Mr. Finlay, or an explanation from Mr. Finlay, caused my O.K. on this \$1,500 voucher which authorized and directed the payment to Henry & Stribling, of Waco, Texas, the sum of \$1,500—"expense in

anti-trust civil case of State of Texas vs. W. P. O. Co., at Waco." "Fee" in anti-trust civil case of State of Texas vs. W. P. O. Co., at Waco—"fee" is stricken out and the word "expense" written in place of it. I have no recollection about the change. I may have stated to Mr. Finlay that there was no "fee" due to Henry & Stribling and they changed it on that account. That is surmise. Neither was there any "expense" due Henry & Stribling. I did employ Mr. Stribling in the Fall of 1900, to render legal services. [Is lobbying legal service?]

The voucher is evidence that it was made to pay a sight draft drawn by somebody else—not by Henry & Stribling. [Of course it was made to pay Bailey's sight draft for \$1,500 in keeping with Pierce's telegram to Finlay, and in keeping with the draft of June 13th, 1900, which Bailey did, in fact, draw through the Gainesville bank and which was afterwards returned to him so that his signature might be destroyed and which draft was so vehemently denied by Bailey as ever having existed, until its existence was accidentally discovered by Governor Francis' letter book which showed that he returned Bailey's draft to him November 22nd. 1900, along with the \$3,300 receipt, which Bailey had given to Pierce on their first meeting, April 25, 1900, and both of which items were finally charged up to profit and loss and were never repaid to the Waters-Pierce Oil Company, according to their books.]

The change from "fee," to "expense" in the \$1,500 voucher might have been made at my suggestion, although there was no "fee" and no "expense" due them or either of them; none whatever. The words in my letter of June 16th, 1900, addressed to Judge Clark, "I have arranged to satisfy, at least for the time being, Henry & Stribling. This is strictly confidential," I am satisfied refer to this \$1,500 voucher. I don't see that it could refer to anything else.

I feel satisfied if Mr. Stribling had obtained a loan of \$1,500 through Mr. Bailey, that I would not have paid Mr. Stribling a fee six months later without adjusting that matter, if I had known that the money had been the money of the Waters-Pierce Oil Company.

The reason I referred, in my letter to Judge Clark, to the Henry & Stribling matter as strictly confidential, was I suppose, I did not want Judge Clark to communicate that statement to anybody, *not even to his partner*. There are some things that we lawyers have in our practice that we deem it inadvisable to go to others. [Especially lawyers who are associated with county attorneys in prosecuting trusts, to insolvent United States Senators who practice political influence for "loans."]

STIBLING AND THE FIFTEEN HUNDRED AGAIN.

The letters of June 5th and June 15th from Judge Clark to me, just before the Henry & Stribling transaction, refer to the uproar that was being raised in the newspapers in Texas with reference to the

re-admission of the Waters-Pierce Oil Company after its dissolution and reorganization—that is the criticism as to General Smith. In my reply to Judge Clark's suggestion that "it would not be amiss to have Bailey make some suggestions to Stribling," I said, "I have arranged to satisfy, at least for the time being, Henry & Stribling. This is strictly confidential." I am satisfied that that allusion in my letter of the 16th refers to the transaction which is represented by the voucher for \$1,500.

Stribling was not in St. Louis at that time [June 16, 1900], and I had no communication with him, directly or indirectly. I suppose that Judge Clark thought, because Senator Bailey had taken the part he had in April, would be willing as a friend of Mr. Pierce, along the lines of his original action, to still further aid in disposing of these cases. We did not want Mr. Stribling to take the course he had threatened as a matter of course. *We wanted peace; we wanted to end the litigation the cheapest and quickest way possible.* [Peace, sweet peace, peace to pursue, noiselessly and peacefully, their piratical pursuit on the placid seas of Texas commercialism at the cost of Texas' honor and Texas' commercial liberty! Verily they sought peace, not "in its usual channels and ordinary haunts," nevertheless, "peace in ways purely pacific."] If anybody [who?] saw fit to loan Mr. Stribling \$1,500 to *ease his financial condition so as to induce him not to take an unjustifiable course against the company, why I was perfectly satisfied.* If the loan was made to Mr. Stribling in the way and for the purpose suggested, I do not know how the money got into Stribling's hands.

I do not know why Judge Clark stated to me in his letter of June 5th, that I "had better have Bailey communicate with Stribling." I suppose Judge Clark suggested that to me because I was leading counsel in the case and he would not feel at liberty himself in putting it up to Mr. Bailey.

The reference in the letter of June 16th from me to Judge Clark that "I have arranged to satisfy, at least for the time being, Henry & Stribling," must have had reference to the transaction connected with the \$1,500 voucher. It could not have had reference to anything else.

STIBLING GOES TO ST. LOUIS AND COLLECTS THIRTY-ONE HUNDRED DOLLARS.

Yes, sir, Judge Clark wrote me that Stribling wanted to come up to St. Louis, but that he thought he had better not come. I would rather not answer that question with reference to the \$3,100 voucher. I do not think I should discuss my transactions with Mr. Stribling. It is going into private matters. It is not fair to Mr. Stribling and I do not feel at liberty to do so without his approval. [The Committee, strange to say, insisted, however, and the witness continued.] The reason I advised Judge Clark in my letters that

Stribling had better not come up to St. Louis and that I could meet him somewhere else was because there had been a great deal said at the convention [Waco, August 8th, 1900, concerning the fraudulent re-admission, through Senator Bailey's influence, of the Waters-Pierce Oil Company], and I did not deem it advisable under the circumstances, in view of Mr. Stribling's employment in that case, for him to come to St. Louis. That was my idea. It would—well it would look like it would give a man like Thomas [a patriot of sensitive honor] a reason to suspect and talk.

In all probability my letter of November 15, 1900, to Judge Clark and the one from him to me, that he will probably be there [in St. Louis] Monday morning and that "we have gone very lightly over the matter with him and made the suggestions indicated by you, but without apparently convincing him," refers to Mr. Stribling. The confidential letter of November 12th, that I had received from Judge Clark, I think refers to Mr. Stribling. [Stribling was forced to admit on the stand that he collected \$3,100 from the Waters-Pierce Oil Company, through Johnson, in November, right after the penalty suits were dismissed. He and Johnson claimed that this money was paid him for lobbying to be done for the Waters-Pierce Oil Company before the Texas Legislature, when it met the following year.]

I assume that the \$3,100 voucher was a settlement of the Stribling matter when he came to St. Louis in November. I went to Mr. Pierce and he gave me his individual check for \$3,100. I do not think this had anything to do with fumigating the car. [Bailey once tried to explain this \$3,100 payment to Stribling by explaining as he was informed, so he said, that it was for fumigating and refurnishing the private car on account of a case of small-pox.] There is another voucher which has not figured here at all, I think that it is some \$2,200 or \$2,300.

BAILEY AND PIERCE INTIMATE.

Yes, I know something about Mr. Bailey and Col. H. C. Pierce being intimate. I have met them together frequently, a number of times. I know Mr. Pierce has a very profound admiration for Mr. Bailey and I know Mr. Bailey has a very great respect for Mr. Pierce's ability along his lines. [His specialty being private loans to public men, political influence as collateral, with paper made out in any form to suit his customers.] They are both men of more than ordinary intellect, although of a different type of individuals.

Mr. Pierce will not be here to testify in this investigation unless it is desirable for him to come. I understand that Mr. Pierce is under indictment. I will say this, however, Mr. Pierce assures me *if Mr. Bailey wants him to come here he will do so and testify regardless of consequences.*

I wrote Mr. Bailey, when I saw matters were reaching a crisis here and there was liable to be an examination, telling him that I would be perfectly willing and I would be very glad to come here

and tell all I know about it. I came voluntarily without process, at his suggestion.

I have met Mr. Bailey and Mr. Pierce at the Waldorf and I have met them at the offices of the Mexican Central Railroad Co., 25 Broad Street. Mr. Pierce has apartments at the Waldorf; has had for a number of years. I have met Mr. Bailey there a number of times. After which Mr. Bailey took charge of the Tennessee Central matter. I met him at Mr. Pierce's offices with the Mexican Central Railroad Company, 25 Broad Street, and also at Mr. Pierce's apartments.

Mr. Bailey has never appeared in any of the United States or State Courts for Mr. Pierce in any litigation—never. Neither has he ever filed any briefs for them in any court, nor prepared any pleadings, for them, to be filed in any court.

The litigation of the Tennessee Construction Company has been conducted, under my supervision, with local counsel in Tennessee and local counsel in Indianapolis, Ind. Mr. Bailey has never assisted in any of that litigation. [It will thus be seen that Mr. Bailey has never appeared as a lawyer for any of these immense public utility properties, but has been used, as Johnson said that he and Pierce intended to use him, for "his personal and political influence."]

PIERCE SEVERAL TIMES A MILLIONAIRE.

Mr. Pierce was worth a good deal of money. He was several times a millionaire, I think at that time. He was connected prominently with one or more banks in the city of St. Louis as a stock holder and director.

ATTORNEY JOHNSON TELLS OF THE STOCK JUGGLERY BETWEEN PIERCE AND STANDARD OIL.

(pp. 141-144-152.)

From the time the license was obtained for the old Waters-Pierce Oil Company, in July, 1889, Mr. Pierce was in the absolute control, so far as the policy and conduct of the business was concerned, of that company, and continued to be in absolute control down to the time of its dissolution, notwithstanding an interest in the company was part of the time vested in the Standard Oil Trust, and afterwards in the Standard Oil Company of New Jersey. It is predicated upon the further fact that when General Smith decided that there was no way by which the judgment of ouster could be set aside and the old company would have to cease to do business in the State, and we concluded to dissolve the old company and organize a new company, I, on behalf of Mr. Pierce, made an arrangement with the general solicitor of the Standard Oil Company of New Jersey, representing the Standard Oil interest, to the effect that Mr. Pierce should subscribe for all the shares of stock of the new company, and hold those shares and manage the company as an absolutely independent concern, without dictation or control upon the part of the Standard Oil interests. It

was on the strength of that that Mr. Pierce made the representation to Mr. Bailey.

While I believed that that arrangement of holding the stock was not violative of the law, at the same time I recognized the fact that great prejudice existed against the Waters-Pierce Oil Company, *and it was not policy for that matter to be made known to anybody.* When I say that Mr. Pierce controlled the business of the Waters-Pierce Oil Company absolutely, I do not mean to say that there was an absolute freedom from controversy and friction as between him and the Standard interests, because there was such, and they were furnished with information as to details of the company's business, both before—of both during the existence of the old company and the new company, but that was not an incident of or resulting from any control exercised by them. It was done upon the theory that they, as stockholders or representing stockholders, under the laws of Missouri, had a right to be informed from time to time, and inspect the books from time to time, if necessary, to know how the business was conducted.

I will say this, too, that Mr. Pierce and I took advantage of the final decision of the Secretary of State to organize the new company in the manner in which I did, and to make the arrangement which I did to secure to Mr. Pierce the control of the company, because I felt that the company would never be free from the assaults upon it, whether the law justified those assaults or not, as long as, or *if it were known, that as a matter of fact the company was controlled by the Standard Oil interests.* [In connection with this sham or blind it is an interesting fact that *the Waters-Pierce Oil Company continued to buy all of its supplies from the Standard Oil Trust and to make quarterly and semi-annual reports to 26 Broadway just the same as ever.* Pierce was simply given back the presidency of the Waters-Pierce Oil Company May 29th, 1900, from which he had been ousted in February, 1900. He was so restored to the presidency because of his political influence in Texas through Francis and Bailey.]

Mr. Pierce had subscribed and paid for all the shares of stock under the agreement that he was to hold them in his own name, for the purpose of managing and directing the affairs of the company and he held these shares until the following September [from April to Sept. 1900], all of them, intact, so that at the time the representation was made, I suppose Mr. Pierce might have said that his representation to Mr. Bailey was true. [Just as true as a lie could be.]

But there was another idea in the matter. I am going into heart secrets, close business secrets. That was the fact, [purpose] to keep the fact absolutely concealed, undisclosed, and to conduct the company on a strictly legal basis. There is one matter, in response to Representative Cobb's question, I was just thinking about. Mr. Pierce's interest in the business of the Waters-Pierce Oil Company in Texas at that time was quite valuable. If there had been no organization and incorporation of the new Waters-Pierce Oil Company, and the old Waters-Pierce Oil Company had gone out of the State, inevitably the

Standard Oil Company would have established itself in the State of Texas, exclusively, and Mr. Pierce would have lost that business and the interest in that business which was represented by the Waters-Pierce Oil Company—by the old company, before its dissolution and the new company after its organization. That had a great deal of influence, I assume, in determining Mr. Pierce in the course he took.

The Standard Oil Company of New Jersey joined in the application to dissolve the Waters-Pierce Oil Company. [In Missouri, May 28th, 1900.] The Standard Oil Company of New Jersey as stockholders voted for the dissolution of the corporation. It may have been through myself under power of attorney.

Some time in September [1900] Mr. Pierce was requested to turn over relatively the same number of shares of stock in the new company which had been standing in his name on the books of the company, as those which stood in the name of the Standard Oil Company of New Jersey in the old company at its dissolution, to a gentleman by the name of Garth, an officer in a New York bank, possibly the Seaboard National Bank—I do not remember that, exactly. In compliance with that request he took the certificate for that number of shares to the bank and delivered it to Mr. Garth, and Mr. Garth paid him the subscription price for that number of shares, 277-100 I believe it was. I forget the odd number of shares. *Mr. Pierce received a check for the money, and delivered the certificate.* That is all he knew of the transaction until some time in the summer of 1904, that certificate of stock was presented to the proper officers of the Waters-Pierce Oil Company for transfer on its books to one M. M. Van Buren, and the transfer was made. [It is significant that the Standard Oil Company's interest in the Waters-Pierce Oil Company stock was turned over in September, 1900, while Bailey was still hobnobbing with "my dear Pierce," and that, too, to an employe of the bank with which S. G. Bayne was and is connected, to-wit: the Seaboard National Bank of New York. The dividends belonging to the Standard Oil Company on this stock, after it was transferred to Mr. Garth, were paid by the Waters-Pierce Oil Company to the Standard Oil Company through this banker, Bayne. Bayne is the man, also, who employed Bailey for \$5,000 to write a charter for the Security Oil Company of Texas, which is now being sued by the State of Texas as belonging to the Standard Oil Company. Bailey's connection with the organization of the Security Oil Company was simultaneous also with his vote on the Aldrich Currency Measure, which measure was opposed by all the Democratic Senators as being designed for the benefit of the money interests. Senator Aldrich has long been recognized as a senatorial tool of the Standard Oil Company. Senator Aldrich is not only the father-in-law of John D. Rockefeller's son, but is said to be "oil-rich." It is doubtful, however, whether or not he could outclass "Coal Oil Joe" in this particular.]

ATTORNEY JOHNSON VERIFIES THE VOUCHERS AND DOCUMENTS.

I know H. Clay Pierce intimately and am familiar with his handwriting. That is Mr. Pierce's signature on the \$3,300 voucher. That is Mr. Pierce's signature on this receipt for \$1,500. The upper portion of the \$1,500 voucher is in the handwriting of Mr. A. M. Finlay.

The endorsement in lead pencil, "S. D. drawn by Bailey for \$1,500," on the telegram looks something like Mr. Finlay's, but I could not say whether it is or not. [Finlay was vice-president of the Waters-Pierce Oil Company and afterwards also testified that the notation, "sight draft drawn by Bailey for \$1,500," was in his handwriting.]

The voucher proper, dated June 15, 1900, that "O. K. J. D. Johnson," is mine. Under the words, "Approved for payment," "A. M. Finlay. V. P." or "V. Pt.," I believe is Mr. A. M. Finlay's handwriting.

The signature on the voucher, dated St. Louis, November 20th, 1900, for \$3,100, is that of C. M. Adams and I think it is his true and genuine signature. At the bottom of the voucher is the signature of H. C. Pierce.

I recognize J. P. Gruet's signature—"Approved for payment, J. P. Gruet, Secretary." I recognize after the word "Entered," the signature of Mr. E. H. Avery. I know his signature.

At the bottom of the receipt on the \$200 voucher, dated at St. Louis, is the signature of Mr. H. C. Pierce. "Approved for payment," "J. P. Gruet, Secretary," that is the signature of J. P. Gruet.

The signature to the letter dated June 10, 1901, purporting to be addressed to Mr. J. P. Gruet, is that, I think, of Mr. H. C. Pierce. The voucher dated June 12th, and "J. W. Bailey, Gainesville, Texas," which follows, I would say is in the handwriting of J. P. Gruet, Sr. The signature "A. J. Hutchinson," and the initials, "J. P. G. Jr.," I do not know. "Approved for payment," "J. P. Gruet, Secretary,"—that is Gruet's signature—Gruet senior, I mean.

J. P. Gruet was secretary of the Waters-Pierce Oil Company at that time. That is my recollection.

Mr. Pierce has a secretary who has been with him a number of years, by the name of Stewart, who signs his name pretty near like Mr. Pierce's own signature. On closer inspection I am inclined to believe that the letter dated June 10th, 1901, signed "H. C. Pierce, president," and the letters "J. S." after the word "president" is that of his secretary.

THE SECRET CODE BOOK.

The little book stamped on the back, "W. P." containing 355 pages with "W. P. Co. No. 601, rules for use of this code," is the private cipher code book of the Waters-Pierce Oil Company. [This is the famous secret code in which Mr. Bailey figures as Senator "Republish," whose business it became, under Pierce's employment, and instruction, to "quiet all Texas parties." His task remains unfinished

and grows more impossible from day to day as the people come to discover the character of their formerly idolized Senator.]

BAILEY AT 26 BROADWAY, NEW YORK, N. Y.

(pp. 122-131.)

The witness, Johnson:

I heard a conversation between Senator Bailey and Mr. Pierce with reference to the relations between the Waters-Pierce Oil Company and the Standard Oil Company, or the relations as affecting Mr. Pierce's interest in the Waters-Pierce Oil Company. This conversation took place at Mr. Pierce's offices in the headquarters of the Mexican Central Railway Company, 25 Broad Street, in New York city, 1905.

Mr. Priest and myself went on to New York for the purpose of conferring with Mr. Pierce about the subject matter of the conversation. Mr. Bailey came in and was present during the conversation, and he took part in it merely incidentally. He was not interested in the matter except as the personal friend of Mr. Pierce, as I understood.

It was in the board of directors' room of the Mexican Central Railway Company, Broad Street Exchange, the room adjoining Mr. Pierce's private office. It was either in the summer or early fall of 1905. I went to New York quite a number of times that year.

Mr. Bailey came into the room I think *from Mr. Pierce's room*, and I think Mr. Pierce was with him. It was mentioned that Mr. Pierce had advised Mr. Bailey, either that day or very shortly before that time, of the fact that he had deceived [?] Mr. Bailey, or concealed from him the fact that the Standard Oil Company owned shares of stock of the Waters-Pierce Oil Company.

Mr. Bailey said that he was very much shocked and surprised at that information. [How ridiculous! Every cross roads merchant in Texas had known the fact to a moral certainty for fifteen or twenty years. How credulous and innocent was "our confiding Joe."]

Mr. Pierce said that he was very sorry that the fact had been kept from Mr. Bailey. [It was a pity!] I made some remark myself that I regretted it exceedingly, and that I felt all along that Mr. Bailey should have been apprised of the fact. [Bailey after he admits he found it out, in 1905 said nothing about it, so what difference would it have made from the beginning?] Mr. Bailey said, "I have about made up my mind to have nothing more to do with Mr. Pierce"—that was half serious, more serious than humorous. [?] He seemed annoyed, but he said, "If Mr. Pierce is going to have a fight with the Standard Oil Company or the Standard Oil people, I will stand by him and do all I can to aid him."

Certain matters in regard to the purpose of that conference were mentioned. The fact was also mentioned that the Standard Oil people at that time denied that the Standard Oil Company owned a block of the stock which it was supposed was held by them, and had claimed

that the stock had belonged to Mr. Van Buren, in whose name it then stood on the books of the company. It was suggested by Mr. Priest that he had an engagement to meet Mr. M. F. Elliott, the general solicitor of the Standard Oil Company, that morning about that hour, and suggested that Mr. Bailey accompany him to twenty-six Broadway. [This lawyer, Elliott, is the general attorney of the Standard Oil Company from whom Bailey was forced to admit later on in the proceeding that he, Bailey, had collected a fee of \$2,500 paid by the Standard Oil Company to Bailey for a legal opinion rendered the Standard Oil Company in 1901, the next year after he began his grafting with Pierce.] It is only about a square, two squares away from the Broad Street Exchange. Mr. Bailey finally consented to do so, as I understood him, on the theory that he wanted to find out the facts or what their position in regard to the matter was. They left the conference, and left Mr. Pierce and Mr. Richards and myself there. [Richards was another lawyer, Pierce's son-in-law.]

That ended that conference. Mr. Bailey returned afterwards—it may have been in an hour or more, and we then had further conversation about the same subject. When Mr. Bailey returned from the meeting with Mr. M. F. Elliott, general solicitor of the Standard Oil Company, he was considerably excited, and proceeded to recite what had occurred. [It is not to be supposed, however, that Bailey's excitement came about from having seen the Standard Oil Octopus or from having been given a glimpse at their money bags at 26 Broadway.]

When they got over there, he said, they were ushered into a room where there was John D. Archbold present, and several other Standard Oil people. [Think of it, Texans! Your great Senator, self-styled "the greatest living Democrat," mixing with that bunch of oil barons, right in the heart of their rendezvous—in the inner offices of the greatest trust the world has ever known!] He said to Archbold, who was spokesman, that he, Bailey, had been deceived in regard to their owning stock in the Waters-Pierce Oil Company. [Why then had he taken Standard Oil money direct in 1901?] that he was very much surprised in regard to it, and he wanted to know the facts of it. [Pierce had told him it was so and he, Bailey, told the Investigation Committee of the Texas Legislature in 1901 that Pierce "was an honorable man—a life-long Democrat."] Archbold said, "It is a mistake. The block of stock which stands in Mr. Van Buren's name belongs to Mr. Van Buren and we have no interest in it, and I hope, Senator Bailey, you will believe my statement." Senator Bailey said that he replied, "Mr. Archbold, I don't believe a damn word of it." [Who would have thought that "our Joe" would become so indignant on such an occasion!]

There was further conversation between the two. Mr. Bailey finally got up and as he left the room told them, "All of you ought to be in the penitentiary, and I will do what I can to put you there," and that terminated the interview. [Why should they have been in

the penitentiary any more than Pierce? They had received 60 per cent of the extortionate gains from the people of Texas and Pierce individually had plundered the people of Texas for 40 per cent of those extortions.]

Mr. Bailey did not tell us what steps he took to accomplish his purpose to put them in the penitentiary nor anything about what he was going to do with reference to putting them in the penitentiary. [In this connection it is interesting to note that Bailey met the Attorney General of Texas, R. V. Davidson, in Washington in the summer of 1906, a year after this fiasco at 26 Broadway, and knew Attorney General Davidson was seeking proof of the connection between the Waters-Pierce Oil Company and the Standard Oil Company, but never a word did he tell Davidson of the facts just described by the witness Johnson. If Bailey had been honest in his pretense of ignorance as to the connection between the two companies why did he not immediately write the attorney general of Texas of the fact in 1905? Instead of that, even in 1906 in talking to Attorney General Davidson in Washington, he told the latter that he, Bailey, would be glad to join Davidson in his effort to oust the Waters-Pierce Oil Company as a part of the Standard Oil Company, provided Davidson was sure that the suit would be successful—otherwise he, Bailey, would have nothing to do with it. Again, Bailey must have known of the holdings and operations of the Standard Oil Company in Texas in 1901, for he, himself, was forced to admit on the stand that he had received a \$2,500 fee for an opinion rendered the Standard Oil Company *with reference to doing business in Texas at that time*. Verily "there are none so blind as those who refuse to see."]

FINLAY'S "MEMORY."

Andrew M. Finlay, a brother-in-law of H. C. Pierce, and vice-president of the Waters-Pierce Oil Company for many years, appeared as witness for the Standard Oil Senator from Texas (Senator Republic) and testified (Bailey Invest. Com. Report, 1907, pp. 739-760) in substance as follows:

My name is Andrew M. Finlay. I live in the city of St. Louis; am engaged in the oil business; have been associated with the Waters-Pierce Oil Company since 1878. I know H. C. Pierce and he is a brother-in-law of mine.

PIERCE LOSES PRESIDENCY OF WATERS-PIERCE OIL COMPANY BUT GAINS IT BACK THROUGH BAILEY.

The witness, Finlay (continuing 739)—In 1900 I was vice-president; after that I was president *for a while*, and then vice-president again and have been continuously with the exception of a few months that I was away from St. Louis.

Yes, sir; I am acquainted with Senator J. W. Bailey of Texas. I got acquainted with him, I think in the summer of 1900. I do not recall anything about the day of the month.

I was made president on the 14th day of February, 1900. Mr. Pierce had been president.

Q. Why the change?

A. The reorganization.

Q. Why the reorganization?

Mr. Hanger—Do we understand this had anything to do with the inquiry, Mr. Chairman?

The Chairman—Is this the reorganization—

Q. The reorganization of the Waters-Pierce Oil Company in the winter of 1900.

The Chairman—I can't see any materiality, Mr. Cocke, but go ahead.

Q. Why the change of officers on February 14, 1900?

A. Legal matters that I could not tell you about. Mr. Johnson handled the legal matters for the company.

Senator Green—Mr. Finlay, you will have to talk a little louder.

A. Legal matters that I couldn't tell you about. Mr. Johnson handled the legal matters of the company.

Q. You were vice-president before February 14, 1900; for how long?

A. From February—

Q. But before that had you been vice-president—you were made president February 14th?

A. You refer to before 1900, previous to 1900?

Q. Previous to February 14, 1900, how long had you been vice-president?

A. I couldn't tell you without going to the records, seven or eight years, maybe more.

Q. Then on account of legal complications on February 14, 1900, you were made president?

A. The reorganization of the company.

Q. Who was made vice-president?

A. J. P. Gruet, I believe.

Q. Did Mr. Pierce hold any office upon the reorganization of February 14, 1900?

A. I don't think so at that time.

Q. Had he dropped out of the directory as well as any official position?

A. No.

Q. He remained in the directory, did he?

A. I don't remember that, I couldn't say. I can not tell you without going back to the records, I couldn't tell you.

Q. How long did you continue president?

A. I answered that before. I think from February to May 29th or the first part of June.

Q. Who became president?

A. Mr. Pierce.

Q. Why?

A. I don't know.

Q. Don't you know as a matter of fact, Mr. Finlay, that Mr. Pierce was made president at that time at the dictation or with the consent of the Standard Oil interests?

A. I don't know anything about it.

Q. And for the reason of his supposed political influence in Texas?

A. I don't know anything about that.

Q. Mr. Finlay, are you willing to say under oath, that as president of the company, with the company since 1878, that you have no knowledge of the reason that entered into those matters at that time?

A. They were legal complications that were handled by Attorney Johnson.

Q. Is he the only man that does know?

A. Mr. Pierce would know.

Q. While you were president, were you such in fact, or only in name?

A. I was managing the business?

Q. As president?

A. Attending to the marketing of goods more particularly.

Q. Were those—

A. A general oversight of the business in that direction.

Q. Were those functions usually pertinent to the president of the company?

A. A general oversight of the business.

Q. What office did you hold after May 29, 1900?

A. Vice-president.

Q. You dropped back into your old place?

A. Yes, sir; I was elected vice-president.

Q. What sort of a reorganization did you have on February 14?

A. What sort of a reorganization?

Q. Yes, sir.

A. Our annual meeting was held at that time.

Q. By reorganization did you mean, Mr. Finlay, simply the shifting in the officers?

A. I don't understand the details of the legal complications; never did.

Q. Had the company then been ousted from Texas by the affirmation of the judgment rendered in the State of Texas by the Supreme Court of the United States?

A. There had been trouble down here, but the details of it, I could not tell.

Q. Where was Mr. Pierce between February 14, 1900, and May 29, 1900?

A. I don't recall where he was in February or in March, but I know he was in St. Louis sometime in April or May.

Q. What was he doing?

A. That I don't know.

Q. How much of the stock of the company did Mr. Pierce and yourself control February 14, 1900?

A. Aren't you asking me questions that don't pertain to the case?

Q. We hear no objection from counsel or committee; we think it has a bearing; we would like to know what you know about this case, Mr. Finlay?

A. Will you ask the question again, Mr. Cocke?

Mr. Cocke—Will you kindly read it, Mr. Stenographer?
(Stenographer reads the question.)

A. I do not recall the exact number of shares, 2,700 and odd.

Q. Of the total amount?

A. Yes, sir.

Q. Which was how much?

A. 4000, 4000.

Q. How many of the 4000 was owned by the Standard Oil Company of New York at that time, or held in trust for its benefit in some other name?

A. I don't know the exact number, the difference between—there were a few shares held by others, I don't remember who they were.

Q. Yes, sir?

A. Previous to 1900, are you asking?

Q. No; I am asking on February 14, 1900.

A. Well, whatever the difference was between what Mr. Pierce held and a few shares held by the directors, that was held by some one else.

Q. Then with you and Mr. Pierce controlling 2,700 out of 4,000 shares, Mr. Pierce was retired from presidency?

A. Did I say 27 for Mr. Pierce?

Q. That is the way I understood you; I may not have understood you correctly, Mr. Finlay.

A. I am getting things mixed. There was 13, 1,250, 1,240 odd shares; I got the question—

Q. Then the Standard Oil Company—you just got the numbers reversed, have you not, sir?

A. I reversed the numbers.

Q. Who voted the Standard Oil stock at the meeting of February 14, 1900?

A. I do not recall.

Q. Upon the reorganization of May 29, 1900, the second reorganization, after the so-called dissolution, in whose name were the 2,700 and odd shares belonging to the Standard Oil Company carried?

A. When do you ask; what date?

Q. Yes, sir—no, I asked you in whose name were they carried?

A. They were in Mr. Pierce's name, so far as I know.

Q. Uh-huh. The whole business, were they not, for a few months?

A. So far as I know; I never saw it. I never had anything to do with the certificate book.

Q. Who had the certificate book?

A. One of the other officers.

Q. Which one?

A. I don't know whether it was Gruet or Adams.

Q. How long did that continue in his name, do you know?

A. No, sir; I couldn't—

Q. Isn't it a fact that that only continued in his name until the September following?

A. I don't know.

FINLAY MEETS BAILEY IN PIERCE'S PRIVATE OFFICE JUNE, 1900.

Q. Well, you spoke, Mr. Finlay, of having seen Mr. Bailey twice during the year 1906, is that right?

A. I said I thought it wasn't more than twice. I think he was passing through St. Louis, as I recollect, and Mr. Pierce's office was next to mine. The office boy came in and said there was a Mr. Bailey wanted to see Mr. Pierce. As I recollect, I stepped into the room and told Mr. Bailey Mr. Pierce was out of town.

Q. Into whose room?

A. Mr. Pierce's room.

Q. Mr. Bailey was in Mr. Pierce's room?

A. He called on Mr. Pierce.

Q. And was standing there in the room?

A. Or was sitting. He only stayed a minute or two when he found he wasn't in town. I remember calling him Mr. Bailey.

Q. Yes, sir.

A. I didn't know he was Senator until later when he called, I think the second time, and—

Q. At the time, who was with him at that time, Mr. Finlay?

A. I don't recall that anybody was with him. He was passing through, my recollection is he said he was passing through the city and wanted to see Mr. Pierce. It made no impression.

Q. Can you give the date, kindly, Mr. Finlay?

A. The date?

Q. Yes, sir.

A. I could not; no, sir.

Q. Can you approximate the date?

A. It was in the summer season, 19—

Q. Or spring?

A. Not spring. In the summer season, because Mr. Pierce wasn't there. Therefore it must have been the summer season.

Q. Was it before or after your so-called dissolution and reorganization?

A. It was after May 29th, 1900. It was after that date, I am positive, because it was in the summer months when Mr. Pierce wasn't there.

Q. During what months was he absent from the city that season; name them, as near as you can.

A. I can't say positive, but I presume he would go from his fishing camp to his summer home. That would take him away from home very near all summer. He was very seldom in St. Louis during the summer months.

Q. Do you remember how long, about how long it was after you had gotten your new permit, in days or weeks, that you saw Mr. Bailey in Mr. Pierce's office?

A. I can't recall that; it was during the summer of 1900.

Q. Well, was it five or six days after you had gotten your permit, or two weeks, or—

A. I can't recall that; it must have been a month or more, because Mr. Pierce wasn't there the latter part of June, July and August.

Q. Well, he wasn't there June 10th, was he, Mr. Finlay?

A. I could not say. *He was there the first part of June.*

Q. Do you recognize that telegram as one having been received by you from Mr. Pierce?

A. I have no recollection of the telegram whatever.

Q. From the telegram itself—what do you say on that point?

A. I have no recollection of it. It is a matter that would attract very little attention. I would pass it through in the regular course as many another one that passed over my desk.

Q. Will you say, as a matter of fact, that you did or did not receive that message, remembering that you are upon oath?

A. I evidently received it or I would not have written "sight draft drawn by J. W. Bailey for \$1,500."

Q. Is that notation dated, Mr. Finlay?

A. No, sir.

Q. What is the date of the telegram?

A. June 12th.

Q. And what was the hour you received it, if you did receive it, according to that telegram?

A. It is dated 11:05 in the morning.

Q. Then, inasmuch as you made the notation on it and concluding that you did receive it, doesn't it follow that Mr. Pierce was not in St. Louis on June 12, 1900?

A. I should certainly say he was not, if the telegram is dated June 12th.

Q. Now is that about the time you met Senator Bailey in his office?

A. I have no recollection whatever of meeting Senator Bailey in connection with the telegram.

Q. Well, that is not the question.

A. I beg your pardon if I didn't understand you correctly. I will try and answer you correctly.

Q. Was that about the time, disassociating it for the moment if you like, from the telegram, that you saw Mr. Bailey in Mr. Pierce's office?

A. I couldn't say.

Q. Can you state when it was when Mr. Pierce left for his fishing trip?

A. No, sir.

Q. Was it before or after the so-called reorganization?

A. It was after.

Q. He was a party to that transaction, was he, in the reorganization? He was present at the time those negotiations were on?

A. Yes, sir; he and Mr. Johnson handled the whole matter.

Q. Handled the whole matter?

A. I judge so. I wasn't in the conference with them on it at all.

Q. You were not called into consultation?

A. No, sir.

Q. With reference to such matters?

A. No, sir; a legal proposition.

Q. Can you state whether or not Mr. Pierce left St. Louis the next, in the next two or three days, following the issuance of the permit?

A. I could not.

Q. Do you know whether he came to Texas about that time?

A. He came to Texas previous to the reorganization.

Q. Did he not make two trips to Texas that season?

A. I am not clear as to that.

Q. Then there is no way by which you could fix it with any degree of definiteness other than it was during the summer months, and during Mr. Pierce's absence that you saw Mr. Bailey in his office?

A. No, sir.

Q. What did you say, Mr. Finlay, to Mr. Bailey?

A. I could not have said anything to him, because he asked for Mr. Pierce, and Mr. Pierce wasn't there. I had no conversation with him at all.

Q. Did you send him word by the office boy?

A. No, I stepped into Mr. Pierce's room. The office boy came into my room.

Q. What did you tell him?

A. Tell Mr. Bailey?

Q. Yes, sir.

A. He asked me if Mr. Pierce was in town, and I said no.

Q. Is that the first time you ever met him?

A. That is the first time I ever met Mr. Bailey.

Q. Did he introduce himself to you?

A. The office boy told me Mr. Bailey was in the room.

Q. Did you introduce yourself to him?

A. Certainly.

Q. As vice-president of the company?

A. No, sir; that my name was Finlay.

Q. You did not tell him whether you were bookkeeper or what position you held with the company?

A. His calling had nothing to do with the business of the company, he called to ask for Mr. Pierce.

Q. Do you know what he wanted with Mr. Pierce?

A. No, sir.

Q. What did he say?

A. My recollection is he simply asked for Mr. Pierce. I told him Mr. Pierce was not in town.

Q. Then what did he say?

A. I think he left. He might have said something about the weather.

Q. He was alone?

A. He was alone, so far as I remember.

FINLAY MEETS BAILEY IN PIERCE'S PRIVATE OFFICE AGAIN IN 1900.

Q. Well, you say you met him twice that year, that is the first time—you are sure you did not meet him in April before that?

A. No, sir; I did not.

Q. Well, when did you meet him the second time, Mr. Finlay?

A. In the summer.

Q. Well, later in the summer?

A. It was in the fall. The first time I met him in the early summer.

Q. The early summer, the first meeting?

A. Well, it may have been in June.

[Congress adjourned that year June 7th. Bailey evidently came through St. Louis, failing to find Pierce, he doubtless called on Johnson between June 8th and 12th, likely 10th or 11th. Johnson had received Clark's letter of June 5th saying: "The press of Texas have begun to take up the issue of the permit by the Secretary of State, Hardy, in a vigorous manner. * * * The weekly press will doubtless take up the cry and there is a great deal of dissatisfaction evident throughout the State. What it may lead to we can not say, but the condemnation of Hardy and Smith is almost universal. In this connection you had best have Mr. Bailey communicate with Stribling. He is very restless and dissatisfied at the outcome here on last Friday (June 1st) and threatens, privately to us, to institute proceedings, and have a receiver appointed for the defunct company. * * * It would not be amiss to have Bailey make some suggestions to him." It was just at this junction, "early in June," as Finlay says, that Finlay found Bailey in Pierce's office. Then followed, doubtless, some communication to Pierce by Johnson or Finlay or Bailey and as a result of which Pierce wired Finlay on the 12th of June to "Have Bailey loan Stribling \$1,500 on his note," and that "Bailey should quiet all Texas parties."]

Mr. Finlay (continuing)—And then in the fall or late summer, I saw him again in Mr. Pierce's office. I could not tell you the date; that is seven years ago.

Q. Under what circumstances at that time, Mr. Finlay?

A. He called, I simply saw he was in Mr. Pierce's room. I think the second time he was in Mr. Pierce's room when I went in there, and Mr. Pierce addressed him as Senator Bailey, and that is the first time that I—

Q. He wasn't Senator then, was he?

A. Whatever the date; maybe later still, but the second time Mr. Pierce spoke of him as Senator Bailey.

Q. Yes, sir. Well, what conversations did you have there at that time?

A. Nothing whatever.

Q. How did you come to speak to him at all?

A. When I went into this room?

Q. Yes, sir.

A. Mr. Pierce introduced him, as I remember, not knowing that I had seen him before.

Q. Did you leave any memorandum on Mr. Pierce's desk about Mr. Bailey having called the first time?

A. He was out of the city.

Q. I know, but didn't you tell him when he came back that Mr. Bailey had been there?

A. I don't recall that; I don't recall whether I did or not. Those are details it would be hard to remember.

Q. Well, those were strenuous times with your company, so far as its Texas business was concerned, were they not, Mr. Finlay?

A. We were doing business right along after the reorganization. I was attending to the management of the business, particularly the marketing and traffic department.

Q. How did your company get back into Texas?

A. I don't know, sir. I told you they were legal matters Mr. Johnson handled and I can not tell.

Mr. Cocke—Mr. Chairman, this is a question I have no doubt will be objected to, so I state it to the Chair before I put it, and that is to the general understanding among the officials of the company at the time, as to how and by what force or influence the company was able to escape its troubles and continue to do business in Texas. I know—

The Chairman—Do you want to ask that question, Mr. Cocke?

Mr. Cocke—Yes, sir.

The Chairman—Well, you had better ask the question before you argue it.

Q. All right. What was the understanding among the officials of the company and the higher employes, such as Mr. Gruet and yourself, if you might be termed such, as to the power or influence by which your troubles in Texas were overcome and you were permitted to continue to do business here?

A. I know nothing about the details. I know that Mr. Pierce came to Texas—you say he came twice—I don't remember of his being down here but once.

Q. Do you know who came with him?

A. I do not, except J. D. Johnson, I think.

Q. Do you know whether he met Mr. Bailey at that time?

A. I have heard so.

Q. Well, did you know at the time—

A. No, sir.

Q. Do you know, did you know it at the time you saw Mr. Bailey?

A. I can not recall that.

Q. Did you know that he had been instrumental in getting your company straightened out down here?

A. No, I didn't know that.

Q. You didn't know he was employed by the company, did you?

A. No; not the legal part of it.

Q. What interest personally have you in that company?

A. Personally?

Q. Yes, sir; what financial interest?

A. A salary and own one share of stock.

Q. You have no other financial interest in the company and had none at that time?

A. Never had a dollar.

Q. Well, do you know how long Mr. Bailey stayed in Mr. Pierce's office, the second time you saw him there?

A. My recollection is—no, I don't the second time. My recollection is I went into the office and saw him there, was introduced to him, and came out. My office was right next to Mr. Pierce's, just a door between, and I had a way of going into his office without being announced, simply opening the door, and if I saw any one in there, I would back out.

Q. And you found Mr. Bailey in there on this occasion?

A. The second time.

Q. Was he alone with Mr. Pierce?

A. So far as I remember, nobody was with him.

Q. Was Mr. Francis there?

A. No, sir; I never saw Mr. Francis and Mr. Bailey together.

Q. Did you ever see Mr. Francis and Mr. Pierce together?

A. No, sir; unless up at the St. Louis Club, of which I am a member.

Q. You didn't hear any conversation between Mr. Bailey and Mr. Pierce then on that occasion?

A. No, sir.

Q. And don't know how long he stayed?

A. No, sir.

Q. Nor the occasion of his business there?

A. Not a thing about it.

FINLAY VERIFIES FAMOUS PIERCE-BAILEY-STIBLING TELEGRAM AND VOUCHER.

Mr. Finlay (continuing, p. 748)—

Mr. Johnson asked me to come to Texas [to testify for Bailey]. I expect to turn in my expense account to the Waters-Pierce Oil Company.

The notation on the left hand side at the bottom of the telegram, "Sight draft drawn by Bailey for \$1,500," is my handwriting. There was evidently a sight draft drawn by Bailey on Pierce. I have no recollection of seeing the draft, but there must have been a sight draft. The cashier may have advised me it would come through—the notation would indicate to me that there was a draft drawn by Mr. Bailey on Mr. Pierce. It would come through the cashier in the office.

I don't know what impression Mr. Pierce's telegram to me to have Senator Bailey loan Mr. Stribling money, made on my mind. I possibly phoned and asked Mr. Johnson if it was O. K. Certainly I saw this voucher [\$1,500 Bailey-Stribling voucher] from that memorandum I made at the time. I don't recall whether Stribling was one of our attorneys or not in the civil cases at Waco. They had something to do with the Waco cases. Fees for legal services would be passed on by J. D. Johnson. I would pay no attention except to pass it along and do as Mr. Pierce told me.

Q. Did you receive any letter from Mr. Pierce after the 12th and before this voucher was made out on the 15th?

A. I had my stenographer look through the files for any correspondence relative to the matter, and she could find nothing. [What a pity! He would not have brought it along to Texas if he had found it. Just like old man J. D. Johnson could not find anything in his files bearing on this matter.]

Q. When you were in Waco, [in November, 1900] did you learn that Mr. Stribling was representing the opposition to the company, the Waters-Pierce Oil Company?

A. They, I knew, were connected in some way with the cases, but I didn't know, I don't remember what it was. * * *

I knew Mr. Stribling was not representing our Company. [And yet he received company money.]

Q. You say this word "Stribling" in the telegram gave the suggestion to you?

A. That was, there was a firm there, a legal firm of Stribling & Taylor.

Q. Stribling, or whatever it was; didn't you know the firm in which Stribling was a member, by reason of your previous visits to Waco? Didn't you know Stribling was in opposition to your company in that litigation?

A. I may have known it at that time.

Q. You don't even remember now which side of the case Stribling was on?

A. They were not on our side. If that man was in the case, they were on the other side.

Q. This voucher on its face indicates that the Waters-Pierce Oil Company were indebted to Henry & Stribling for services, namely, a fee of \$1,500, don't it?

A. That looks as though the voucher had been made out.

Q. Well, I say it is what it indicates.

A. Account of expense.

Q. Well, it means that the Waters-Pierce Oil Company are indebted to Henry & Stribling in the sum of \$1,500 for services, don't it?

A. It looks that way.

Q. Mr. Finlay, was this transaction or this telegram a usual or unusual one in the ordinary course of business of the Waters-Pierce Oil Company?

A. I should say it was an unusual one, but I have—

Q. Unusual?

A. No recollection of the telegram. If it wasn't for the writing there, I would say I have never seen it before. [He would have forgotten it, of course, except for the fact that we could prove his handwriting on the telegram.]

Q. Well, now then, you were asked about, if that voucher could have been made in the shape it was made, if a personal draft had been drawn by Senator Bailey on Pierce, if such a draft had been drawn indicating that it was to pay Henry & Stribling a fee of \$1,500 in those cases for the Waters-Pierce Oil Company, that is just the way the draft, the voucher, would have been made, isn't it?

A. Yes, sir.

The following questions were asked by Mr. Cobbs:

Q. I want to ask you some questions.

Mr. Wolfe—Well, hurry up and get through.

The endorsement on the \$1,500 voucher of June 15, 1900, "approved for payment, A. M. Finlay," is my signature. Under the words "approved for payment" I signed "A. M. Finlay."

The writing on the voucher "draft delivered to Mr. H. C. Pierce by Mr. Gruet, November 17, 1900," signed by "H. N." may be Naudin.

In my opinion the receipt that purports to be signed by H. C. Pierce dated St. Louis, Mo., June 15, 1900, is the genuine signature of Mr. H. C. Pierce.

"a/c Stribling & Taylor," scratched out; also, "Henry & Stribling, fees Waco civil cases," is in my handwriting.

Mr. Johnson came with me from St. Louis on this trip; no one else. Mr. Johnson told me I would be called on to testify as to the \$1,500 voucher, that's all; told me that coming down on the train.

J. P. GRUET, SR., GIVES INSIDE OF THE STORY.

(Pages 201-281.)

J. P. Gruet, Sr., witness for the complainant, being first duly sworn, testified in substance:

I live in Webster Grove, Missouri, a so-called suburb of St. Louis, where I have resided for about fifteen years, having come to St. Louis, first as an auditor and subsequently secretary; then vice-president for a brief period, and then again secretary of the Waters-Pierce Oil Company. My services began September 15th, 1890.

H. C. Pierce was president of the Waters-Pierce Oil Company. I reorganized the business after I came there. I was with the Standard Oil Company from 1886 to 1887. The Standard Oil Trust agreement was made in 1882. The various Standard Oil Companies around the country and in foreign countries were managed by local men at various headquarters. The officers of the headquarters received reports from the field. They in turn made statements and reports and transmitted them to some person at 26 Broadway, in New York, who represented that particular interest, which interest was represented at 26 Broadway for the purpose of correspondence and facilitating of the business. The management of the detail of the business was largely with local men at headquarters, of course. The details of policy were discussed in a committee called the "Domestic Trade Committee," at 26 Broadway.

I have been in the committee as the representative of the Waters-Pierce Oil Company. I have sat in their committee and heard their deliberations as a representative of the Waters-Pierce Oil Company. When I spoke of the Standard Oil Company and "each interest," I mean the Standard Oil Company with its various Standard Oil Companies. I will name some of them: The Standard Oil Company of Baltimore, the Standard Oil Company of Cincinnati, the Standard Oil Company of Louisville, the Standard Oil Company of Indiana and Iowa, the Continental Oil Company of Denver, the Continental Oil Company of San Francisco. Those are Standard Oil companies, and they had representatives at 26 Broadway, with whom they corresponded for the facilitating of the business.

Yes, there is a Standard Oil Company of New Jersey. Up to recently it was a distributing concern like all the others. The Waters-Pierce Oil Company was similar to all the other distributing companies; *received all its petroleum supplies from the Standard Oil Company.*

They all bought their supplies of petroleum products from the Standard Oil Company. In a few cases, for instance, in the scarcity of gasoline in recent years, they have bought some gasoline from the Gulf Refinery Company, but their supplies were received on requisition from the Standard Oil Company, mostly from Indiana, until the plants were built in Texas—the first plant at Corsicana, and then subsequently they took supplies mostly from the Security Oil Company.

[The Security Oil Company, it will be remembered, was helped into existence by J. W. Bailey for a fee of \$5,000.]

The Security Oil Company was organized within three or four years, perhaps five, after oil was discovered at Beaumont. The Waters-Pierce Oil Company got refined oil and gasoline from the Security Oil Company. I cannot say the Security Oil Company was a Standard Oil organization except from hearsay.

I can describe how we did business with 26 Broadway and that was custom. We reported all our sales in detail to 26 Broadway. By detail I mean tank wagon sales. [At this point Judge Wolfe of Sherman, a Bailey partisan and member of the suppression committee, could not stand to hear about these details and strenuously objected but finally the witness was allowed to proceed.]

In detail I mean by reporting tank wagon sales of refined oil and gasoline to show the delivery made in the way of products, and also any other—the other deliveries such as in barrels or cases. We made reports of all construction. We made reports of salaries. We made reports in detail of all the business that was transacted every month, quarterly and every six months and yearly.

Certainly the Standard Oil Company assumed to exercise supervision over the business of the Waters-Pierce Oil Company—always at regular intervals, at least once a year, there would be auditors come to us from 26 Broadway's auditing department to audit all of our books and accounts for a period, taking up from the time of the last audit to the period when they were there. That system was in force all the time when I was there—never changed.

SIMULATED REORGANIZATION.

Yes, I know of the purported reorganization in May, 1900. There was no change in our reports to the Standard Oil Company by reason of that reorganization or in the visitatorial powers of 26 Broadway, except in this, perhaps, that during this time they designated a man in Mr. Tilford's office at 26 Broadway as commercial agent for the Waters-Pierce Oil Company—R. H. McNall—and in lieu of sending letters and reports to Mr. Tilford we sent them to him. In all other ways the business was the same as it ever had been.

We received instructions from Mr. Commercial Agent, along after the business had been run that way for a year or two, that perhaps it would be better to address communications to 75 New Street to him. That was the New Street entrance to 26 Broadway. The building ran from Broadway to New Street.

Mr. Tilford had, up to the time of Mr. McNall's appointment, been our correspondent at 26 Broadway—that is the representative of the Waters-Pierce Oil Company. This man McNall was clerk for Mr. Tilford in his office. He had his desk in his office and continued right on in the same way. That was the only change there was. No change in the business of the office—none whatever. We did not change any of the forms or methods of doing business, either before or

after. We continued right in the same way. [That was Senator "Coal Oil Joe's" way of "Bowling to the law" and signified the process by which "this great trading corporation," as he called it, was brought back into Texas "with clean hands" and laid, gently laid, by him, the idol of Texas Democracy, "at the feet of the Attorney General of Texas."]

PIERCE DEPOSED AND THEN REINSTATED AS PRESIDENT OF W.-P. OIL CO.
BY STANDARD OIL.

Mr. Pierce was made chairman of the board, I think, on February 14th, 1900. [This was right at the time that the United States Supreme Court had affirmed the decision of the Texas court ousting the Company from Texas and the presidency of the Company was taken from H. C. Pierce, but restored to him on May 29th, 1901, after the mock reorganization and re-entry into Texas through Francis' and Bailey's "personal and political influence."] Mr. Finlay was made president and I was made vice-president and Mr. Adams secretary and treasurer. That continued until the reorganization of May 28th, 1901, when Mr. Pierce was elected to the presidency, Mr. Finlay vice-president, and I was promoted to secretary—elected secretary of the new company, one and the same.

WHY PIERCE WAS REINSTATED AS PRESIDENT OF THE WATERS-PIERCE
OIL COMPANY.

From the general understanding in the office at the time, I know why Mr. Pierce retired from the presidency of the Waters-Pierce Oil Company in February and then returned to the presidency in May. The general understanding was that Mr. Pierce retired from the presidency *on account of pressure brought to bear upon him by 26 Broadway people*. He got back through the supposed influence—[Here the witness was about to testify, as he had previously told the proponent of the charges and his attorneys, that Mr. Pierce was reinstated because of his "pull with Mr. Bailey and Bailey's political influence in Texas," but the witness was not allowed to proceed with this phase of his testimony—See pages 273-274, Committee report.]

Mr. Pierce has frequently talked to me about the connection of Senator Bailey with these matters. I always understood, from his talk to me, that these matters were used in connection with the Texas cases. My relationship with Mr. Pierce was that intimate that I did not have to go into detail about everything that he asked me to do. *I would not presume to*. [At this point, pages 276-277, the witness was about to state in substance what Mr. Pierce had told him with reference to Senator Bailey's connection with the readmission of the Waters-Pierce Oil Company into Texas, but Senator Stone and Senator Looney, members of the Senate Suppression Committee, did not seem to want to know the facts and both interposed strenuous objections, especially Senator Looney. Bailey says that Attorney General Davidson is "a fool;" then the question arises is Senator Looney, Bailey's candidate for Attorney-General, really a looney?]

The way I recollect the new charter and the method of its procurement was this: One day Mr. Pierce informed me that he had sent his son-in-law up to Jefferson City to surrender our charter and re-incorporate the company; that was on the 28th, [May, 1900], and on the 29th he returned with a new charter, the same name, the same capital, the same in the directorate, except for the name of H. M. Tilford, now appeared the name of J. D. Johnson. [Wonder why they did not substitute McNall, Tilford's office boy, for the latter's place?] The five directors were the ones who signed the incorporation papers. That is all the change that I know anything about.

We still continued to correspond with Tilford at the commencement of this. I cannot tell exactly at what time McNall was appointed commercial agent, and the correspondence went that way but the correspondence either went to Tilford or McNall just the same for some time.

I was secretary of the company until I left in 1905, after which I had a business arrangement with Mr. Pierce for about eight months. I was nominally to run the Pierce Investment Trust Company in St. Louis but did no business.

PIERCE, BAILEY AND STANDARD OIL.

That friction between Pierce and Standard Oil Company throughout the years and in which fight Bailey joined Pierce in 1905 on account of *the fact that Pierce wanted to charge prices that even the Standard Oil Company regarded as exorbitant and consequently a ruinous policy*, may be a surprise to some people in Texas but such is a fact. In other words, Pierce and Bailey have been and now are engaged in a controversy with the Standard Oil people beginning in 1905 wherein and whereby they proposed to maintain prices on oil at a figure so high as to meet the disapproval of the Standard Oil Company itself. Not, of course, that Standard Oil Company is not willing to make a large profit but because they regard Pierce's policy as ultimately ruinous. Gruet in personal conversation with the proponent of the charges and his attorneys told them that such was the fact, giving them much of the details. The following sworn testimony, by Mr. Gruet (Bailey Investigation Committee Report of 1907, page 273) is to the same effect: "There was continually a controversy between Mr. Pierce and the Standard Oil people.

Q. On what account?

A. Particularly the prices.

Q. Well what about the prices?

A. Because they were too high, they thought.

Q. Who thought so?

A. The Standard Oil people.

Q. And who insisted upon keeping them up?

A. Mr. Pierce.

For the last five or six years Mr. Pierce has given very little time to the Waters-Pierce Oil Company's affairs. *He was absolute in cer-*

tain lines, as to selling prices. He did not bother with matter of detail, in any manner, shape or form."

GRUET DELIVERS EVIDENCE AGAINST THE WATERS-PIERCE AND STANDARD OIL COMPANY TO ATTORNEY-GENERAL DAVIDSON, THROUGH ASSISTANT ATTORNEY-GENERAL LIGHTFOOT.

(J. P. Gruet, Sr., testimony, Committee Report, 1907, page 217-220.)

I never saw Mr. Lightfoot until sometime last August, middle of August. I delivered the photographic papers to him on his second visit to St. Louis sometime in September; I think the Attorney General got possession of the original documents a long time afterwards. It was the time I came down here in November, I think about November 18th. Up to that time they had not seen the originals. I should say that I showed Lightfoot those papers the first time coming down on the train from St. Louis. I gave them to Mr. Lightfoot for the basis of a suit against the Waters-Pierce Oil Company *to show the connection, simply and solely, and the control of the Waters-Pierce Oil Company by the Standard Oil Company.*

I will name some of the Standard Oil Companies that compose the Standard Oil Company: "The Standard Oil Company of Baltimore, the Standard Oil Company of Cincinnati, the Standard Oil Company of Iowa and Indiana, the Continental Oil Company of Denver, the Standard Oil Company of San Francisco, those are the Standard Oil Companies, and they had representatives at 26 Broadway, with whom they corresponded for the facilitating of the business.

Yes, sir, the Waters-Pierce arrangement was similar to all the other distributing companies, receiving all of its petroleum supplies from the Standard Oil Company.

There was never any claim made, to my knowledge, that there was any allotment made as a distinct act, but by implication and observance the Waters-Pierce Oil Company operated in the State of Missouri south of the Frisco, and along the Frisco to within a few miles of Kansas City, all the southern part of Missouri, all the State of Arkansas, Oklahoma, and Indian Territory, the State of Texas, and the west half of Louisiana, west of the river.

Just let me say right here, the one share of stock that I held of the Waters-Pierce Oil Company at that time was one share of stock that was transferred to me from the holdings of the Standard Oil Company to qualify me as a director. It wasn't mine; never was mine.

The officers of the company, the Waters-Pierce Oil Company, were two of them Standard Oil men. The Standard Oil Trust never dictated any policy to anybody. *The policy was dictated by Mr. Tilford, who received his instructions from the Standard Oil Trust.* [This is like Mr. Bailey saying that he never received any money from the Waters-Pierce Oil Company. Never did any one else ever receive any money from a corporation as such. It is not only soulless but bodyless and acts only through its officers employees and agents.

Mr. Bailey never received any money therefore from the Waters-Pierce Oil Company but did receive it from the president of the Waters-Pierce Oil Company just as the Standard Oil Company never dictated a policy to the Waters-Pierce Oil Company except through Mr. Tilford who in turn received his instructions from higher officers of the Standard Oil Company.]

The stockholders of the Waters-Pierce Oil Company are: Standard Oil Company, New Jersey; H. C. Pierce, Andrew M. Finlay, C. M. Adams, H. M. Tilford and J. P. Gruet; or were at the time I gave my deposition, January 8th, 1897. This stock was issued to the Standard Oil Company May 20th, 1892. I do not know from whom the Standard Oil Company, New Jersey, obtained their stock. The old certificates were in the name of the Standard Oil Trust.

HOW THE VOUCHERS REACHED MR. GRUET.

I kept these vouchers, with the advice and consent of Mr. H. C. Pierce, on account of not making them public documents around the offices, in a file in my office, a steel file in my office which was locked up at all times, for the purpose of not having them in the general voucher case, which was in the Clerk's room and open to everybody. When I left the Waters-Pierce Oil Company they were taken away in a bundle with my private papers. I had not been in the office of the Waters-Pierce Oil Company more than a month before I resigned. From the middle of January until the first of March I had not been there. These were taken to my house and I found them among my papers because they were in this private file of mine where I had personal matters.

Mr. Pierce never said why he did not want them exposed to everybody, but he said that confidential matters ought to be kept under my charge, away from other people; we never talked about it any further than that. That just simply was his direction, and all of it. I understood why he did not want them exposed and I did not go into it any deeper.

GRUET DEFENDS HIMSELF AGAINST BAILEY'S ATTACKS IN TEXAS BY GIVING COPIES OF VOUCHERS TO CHICAGO EXAMINER.

I turned over the papers to him simply and solely on account of the attitude that Senator Bailey had taken about me. Senator Bailey was drawn into this affair entirely without any doings of mine. In the examination of Mr. Pierce in a private suit that I had against Mr. Pierce he introduced Mr. Bailey's name into that suit as connected with me in that matter of the Tennessee Central Railroad Company, and from that this has grown. I refer to the attitude of Senator Bailey that commenced last October [1906] in his speeches that he has made here, around through the State here.

I first met Senator Bailey several years ago. *I met him in Mr. Pierce's office.*

I had absolutely no other reason in submitting to an interview

with the Chicago Examiner except his attitude in the campaign here toward me. I saw it in the papers once in a while. I would buy a Dallas News and Houston Post once in a while and read his speeches.

My purpose in keeping the papers was self defense against Mr. Pierce or anybody else who took it upon themselves to interfere with me in any way; self defense entirely and solely. I expected a great deal of talk one way or another, which has materialized to a large extent.

PIERCE INTRODUCES BAILEY TO THE STANDARD OIL AUTHORITIES AT 26 BROADWAY THE LATTER PART OF 1899 OR 1900.

I made the statement to Mr. Evans, the reporter, that Mr. Pierce told me along in the latter part of 1899 or 1900—that is exactly what I told him—that along in the latter part of 1899 or the fore part of 1900, Mr. Pierce told me that he had taken Mr. Bailey over to 26 Broadway and introduced him to those people, *and he was to look out for the Waters-Pierce Oil Company's interests.* Mr. Pierce told me that he had taken him over, and as I told this reporter, that he took him over to 26 Broadway and introduced him to the authorities over there the latter part of 1899 or the fore part of 1900. *Mr. Pierce told me that immediately after the transaction. My recollection is it was just before the reorganization.*

Mr. Pierce did not tell me he was deceiving Senator Bailey, neither did he tell me that Senator Bailey believed that these transactions between him and Pierce were personal transactions, and had nothing to do with the Waters-Pierce Oil Company, nothing like that. *I assume Mr. Bailey thought that was the way he was doing it.*

It is true that no sooner would Pierce give Bailey money than he would order me to reimburse him; in other words, I would charge the sums which Bailey got to some particular account and credit Mr. Pierce with the amount.

BAILEY'S SO-CALLED LOANS NEVER PAID.

I was in charge of the accounting department and participated in the other business at the time these loans were made to Mr. Bailey.

These loans were all charged to profit and loss; all of them.

Legal expense would be charged off over to profit and loss. Bills receivable, if they were not paid, were charged to profit and loss. Neither the \$3,300 note or the \$8,000 note nor the \$1,750 were ever paid during my time. [The witness continued with the Company for about five years after the transactions.] They never were received by the Waters-Pierce Oil Company; all these amounts were charged off to profit and loss. I know it because I worked up the finales of all the profit and loss accounts and I went over the trial balances and designated what things would be charged to profit and loss, so as to eliminate such things as had no value from the assets and got it down to the correct showing.

These facts will be disclosed by the general ledger and the journal voucher book will have the closing entries, that is what we call the closing entries, which are transferred.

We kept a set of private books at that time. We carried upon the general ledger an account against the private ledger. Profit and loss accounts were charged to the private journal and posted in the private ledger. Now, the general ledger and private ledger and the journal voucher book would show all these transactions covering these years.

I do not know whether David R. Francis had any connection with any of these settlements of these claims. My whole knowledge of that is what Mr. Pierce has told me and my entries were made accordingly.

J. P. GRUET IDENTIFIES AND VERIFIES ALL VOUCHERS AND DOCUMENTS.
(pp. 201-280.)

I recognize the voucher described "to amount loaned to Joseph W. Bailey. See Mr. Pierce's personal voucher, of April 25th, 1900. Account of Texas cases." This voucher is in the handwriting of my son, J. P. Gruet, Jr. "On account of Texas cases" is in my handwriting and was placed there at the time it was made because Mr. Pierce told me that. My relations, at that time, were perfectly friendly with the Waters-Pierce Oil Company and with Mr. Pierce very friendly indeed. I had no animosity against Mr. Bailey and no purpose or intention of putting anything into that voucher except what Mr. Pierce ordered and directed.

"Fees in Waco civil cases" Henry & Stribling voucher is in the handwriting of Andrew M. Finlay. The last of it is in the handwriting of A. J. Hutchinson. The receipt for \$1,500 attached to the voucher is in my handwriting but signed by Mr. Pierce. The face of it indicates that it was the amount of money which he had given Mr. Bailey "account of Texas cases." All of this was written on the strength of a telegram from H. C. Pierce to Andrew Finlay which telegram was as follows: "Andrew M. Finlay, St. Louis. If Johnson approves, authorize Bailey to loan Stribling on his note fifteen hundred. Bailey should quiet all Texas parties. Tell him I will see him soon." Signed, "H. C. Pierce." Finlay got that telegram and sent it down to me to make a voucher with this notation on it, "sight draft drawn by Bailey for \$1,500."

In Mr. Pierce's letter to me of March 4th he enclosed me J. W. Bailey's note for the sum of \$8,000 dated March 1, 1901. He asked me to "take this note into bills receivable and deposit Company's check for like amount to my credit with the Fourth National Bank as I have given Mr. Bailey my check." The note is dated at Washington, D. C., March 1st, 1901. It has been audited by C. W. Norman, a Standard Oil auditor. All these matters were exhibited to them [Standard Oil auditors]; they report to Wade Hampton. He was in charge of the Standard Accounting in New York.

Mr. Pierce was in Wisconsin at the time Finlay received the telegram.

I mailed the \$1,750 draft, New York exchange, to Mr. Bailey. I do not remember whether there was a letter written.

The \$8,000 note was charged off to profit and loss in the regular course of business because it had outrun itself and was not paid. I charged it off and the \$3,300 was charged off to profit and loss that current year. The \$1,750 item was charged off in that year [1901] and the \$8,000 note, as I recollect it, was charged off to profit and loss December 31st, 1903.

This voucher of June 15th, 1900, for \$1,500 and the notation thereon of November 17th, 1900, draft delivered to Mr. Pierce, indicates that this draft was in the hands of A. M. Finlay, vice-president, at the time this voucher was made. This memorandum here indicates that on November 17th, for some reason or other [Francis, Pierce and Bailey wanted to get Bailey's signature back to him] and some request from Mr. Pierce, it [the draft] was detached from this voucher and handed to Mr. Pierce by me. It indicates that the draft being delivered, that I requested a receipt from Mr. Pierce to cover the omission of the draft. For the reason that the voucher is stamped "with draft attached." It lacks the draft, therefore I had Mr. Pierce sign a receipt for \$1,500, to give a receipt for the money. That is Mr. Pierce's genuine signature on the receipt. If that receipt had not been there the auditor would not have audited that voucher and would have demanded some original paper or some receipt for the money.

This notation on the telegram indicates that "sight draft was drawn by Bailey," and the voucher indicates that the draft was in Mr. Finlay's possession on the 15th of June. I am not testifying to where the draft is. I don't know. [It was sent to Bailey by Francis on November 22nd, 1900, and by Bailey likely destroyed as he afterwards tried to make it appear that this draft had never been drawn.]

The \$8,000 note was charged to profit and loss, as I said to the best of my recollection, December 31st, at the closing of the entries of 1903, and I so advised Mr. Pierce. The reason it was not charged off when it was due in 1901 was because it was carried in in the suspense account, a system of carrying the assets after they become nine months old.

If any interest had been paid on these notes it would have been credited on the Waters-Pierce Oil Company's books to interest account or to profit and loss. [Senator Looney: "I am going to make a motion to strike from this record the answers of the witness to hearsay questions." J. D. Johnson, being Bailey's witness, was allowed to testify quite freely as to what Pierce told him, especially if it was favorable to Bailey. Now Looney and his bunch of Suppressers did not propose to allow Gruet to testify to what Pierce told him; neither would they allow the sub-committee to meet Pierce in St. Louis, which Pierce agreed to do on February 15th, 1907, nor to go to New York to examine Pierce or the balance of the Standard Oil crowd.]

Pierce never called on me for the \$8,000 note, never.

The Standard Oil auditors visited our place on an average about once a year and they were supposed to go over all our vouchers, all our cash payments, receipts, cash books, and make a general audit of the business, as to our sales books, entries in the ledger and trial balances.

STANDARD OIL EXHIBIT.

"26 Broadway, Room 800, New York, November 7, 1902.

Mr. J. P. Gruet, Waters-Pierce Oil Company, St. Louis, Mo.

Dear Sir: Our Mr. C. W. Norman bears with him a letter of introduction to you from Mr. McNall. [This is the same McNall that Gruet testified about occupying a desk in Wade Hampton's office at 26 Broadway and to whom the Waters-Pierce Oil people directed their correspondence after the so-called reorganization, as a blind to the fact that they were reporting to the Standard Oil Company.] Mr. Norman will be assisted in the work of auditing the books and accounts of the general office of your company by our Messrs. W. H. Henderson and W. H. Higgs. I will give them letters of introduction to Mr. Norman, who in turn will introduce them to you. Please place Mr. Norman's name on your payroll at the rate of \$2,500 per annum, beginning with the time he leaves his home for St. Louis. Also pay his expense bills monthly as he renders them to you. Yours very truly,

WADE HAMPTON."

STANDARD OIL EXHIBIT.

"New York, November 12, 1902.

Mr. J. P. Gruet, Waters-Pierce Oil Company, St. Louis, Mo.

Dear Sir: I beg to acknowledge receipt of your favor of 10th inst. Answering your inquiry, please place Mr. Henderson's name on your payroll when he arrives in St. Louis, also that of Mr. Higgs, treating them the same as Mr. Norman, as far as salary and expenses are concerned, during their stay in St. Louis. The full names are W. H. Henderson, salary per annum \$1,800; W. H. Higgs, salary per annum \$1,800. Mr. Henderson should arrive in St. Louis, in a few days, but Mr. Higgs will probably not reach there for ten days or so. * * *

WADE HAMPTON."

STANDARD OIL EXHIBIT.

"New York, November 24, 1902.

Mr. J. P. Gruett, V. P. Waters-Pierce Oil Company, St. Louis, Mo.

Dear Sir: This letter will serve to introduce to you our Mr. W. J. Higgs, who visits St. Louis for the purpose of assisting Mr. Norman in the auditing work. I wrote you some days ago concerning him. Please place his name on the payroll at the rate mentioned in my former letter. Any courtesies extended to Mr. Higgs will be much appreciated by, yours truly,

WADE HAMPTON."

HAROLD NAUDAIN, WATERS-PIERCE OIL COMPANY AUDITOR, VERIFIES
THE VOUCHERS AND DOCUMENTS.

(pages 172-199.)

HAROLD NAUDAIN

who was brought to Austin by John D. Johnson, general attorney for the Waters-Pierce Oil Company, in order that he might testify for Mr. Bailey, was sworn January 29th, 1907, and testified, in substance, as follows:

My name is Harold Naudain; in the employ of the Waters-Pierce Oil Company, St. Louis, as accountant and general officeman for something over seventeen years. Was so engaged in 1901 and subsequent thereto. I had to do with the vouchers of the Company, expenses, etc. The body of the \$3,300 voucher, dated June 30th, 1900, is in the handwriting of J. P. Gruet, Jr. "Account Texas cases," I believe is in the senior Gruet's writing. The voucher is audited by myself and is approved for payment by J. P. Gruet, Secretary. The receipt is signed by H. C. Pierce. The signatures seem to be genuine. I should say that voucher was in the same condition as when it was audited by me.

The voucher is further audited by D. W. Conrey, who was an auditor [from Standard Oil Company] who visited us periodically—a class of auditors visited the concern once a year.

The pencil memorandum, attached to the voucher of January 15th 1900, for \$1,500 is in the handwriting of A. M. Finlay, vice-president, and the receipt for the \$1,500 is signed by H. C. Pierce. The receipt being in the handwriting of J. P. Gruet. The voucher is made out to Henry and Stribling, Waco, Texas, and is in the handwriting of J. P. Gruet, Jr., and it is audited by me. The "fee in anti-trust civil cases of State of Texas vs. Waters-Pierce Oil Company, at Waco, for \$1,500" is not in the handwriting of either of the Gruets.

[Finlay testified that these words were in his handwriting.] It is approved for payment by vice-president A. M. Finlay, and O. K.'d by J. D. Johnson. The memorandum is audited by H. H. Stein, one of the auditors I spoke of some time ago as visiting us periodically like Mr. Conrey.

The endorsement on the telegram of June 12th, 1900, "S. D. drawn by Bailey for \$1,500," "S. D." signifying, as we understand it, a sight draft, is in Mr. Finlay's handwriting. The statement on the face of the \$1,500 voucher stating that the draft had been attached or pinned to the voucher, is in my handwriting and I undoubtedly made it in due course of business. If the draft had not been attached at the time I examined and audited that voucher, I would have made some notation with reference to its absence. Mr. Finlay might have instructed me to have a voucher made, saying there would be a draft presented and to have the voucher ready, or something to that effect.

The voucher for \$1,750 "as per letter J. W. B. herewith attached, dated May 28th," was audited by A. J. Hutchinson, general book-keeper of the company, and a Mr. W. J. Higgle whom I don't know.

The vouchers are all approved for payment by J. P. Gruet, Secretary, and audited by the book-keeper. The voucher in favor of H. C. Pierce for \$3,100, dated November 20th, 1900, [and for which sum J. D. Johnson said Pierce had given him his personal check to be delivered to Stribling] is approved for payment by C. M. Adams, Treasurer, and audited by W. H. Glancey, chief clerk of the accounting department. It is also audited on the back by H. H. Stein, a visiting auditor. [Just another soft name for a Standard Oil Auditor.] The receipt is signed by H. C. Pierce.

The signature on the \$200 voucher, dated November 23rd, 1900, amount paid J. W. Bailey, account Texas cases, all appear to be genuine. The voucher \$3,300 is charged to bills receivable in voucher record No. 20 and was posted in the general ledger, folio 246. [As shown by the bookkeeper Hutchinson as well as by Gruet's testimony, this \$3,300 item, like all other items of money paid to Bailey, was subsequently transferred from bills receivable to legal expense account, then finally charged off to profit and loss and never paid back to the company. Bailey has frequently said that because this \$3,300 was charged to bills receivable it became an asset of the Waters-Pierce Oil Company. That was only a subterfuge trick to carry it, for a while, as a bill receivable or an asset and then charge it to legal expense and finally to profit and loss. This is just another illustration, out of a multiplied number, of Bailey's deceptions and efforts to blind the people.]

Voucher F 463, same date as the \$3,300 voucher, is also payable to H. C. Pierce and is described as "amount paid out in connection with personal indictment and penalty suit and forfeiture of license suit from March 21st to June 1st, 1900," and the amount paid \$2,067.07. [This voucher was a new voucher not included in those in the possession of the attorney-general of Texas. It was simply discovered in the voucher record book then before the Committee accidentally, and the question arises as to what Mr. Pierce did with \$2,067.07 in an effort to get the Texas indictment case against him dismissed? No one will ever know, perhaps, as Bailey and his Attorneys so managed the affair as to keep the sub-committee from going to St. Louis, or elsewhere out of Texas, to get Mr. Pierce's testimony.]

Voucher F 86 dated June 15th, 1900, in favor of Henry and Taylor, described as "fee account State of Texas vs. Waters-Pierce Oil Company, \$1,500," is charged to legal expenses and posted to the general ledger on folio 322.

The books in the home office would show what became of the \$8,000 [Bailey-Pierce] note.

There is a journal register that will show what items are charged off to profit and loss and not paid.

From the books, as an expert book-keeper, I would say that Henry & Stribling got the money. [Through Bailey.]

At the time these transactions were had, Mr. Gruet was in full charge of that [accounting] department and I think was in full sympathy with its purposes and I have no reason to suggest now that at that time Mr. Gruet would have caused an improper record to have been made. The controversy with the Waters-Pierce Oil Company and J. P. Gruet came on about a year ago [1906] and he has not had charge of the oil company's business since 1905.

Voucher L, 92 dated November 20th, 1900, in favor of H. C. Pierce for amount paid to J. D. Johnson for distribution, account Waco, Texas, legal services on account of State against W. P. Oil Co., \$3,100, is in the handwriting of J. P. Gruet, Jr., and is charged to

legal expenses. [This voucher says that J. D. J. distributed that \$3,100 at Waco, Texas, for "legal services State of Texas against W. P. Oil Co." Johnson says he paid it to Stribling for lobbying the next year. Which is more likely to be the truth, the written record made at the time or Johnson's statement about it afterwards in order to avoid a charge of bribery?]

A. M. Finlay, vice-president, ran a pencil through "Stribling and Taylor" and then wrote "Henry & Stribling, fees, Waco civil cases," and I believe that the addition "anti-trust civil cases" was made on the voucher by A. J. Hutchinson. [The reason that Taylor's name originally appeared on this document was this: Taylor was the County Attorney of McClennan County before Cullen F. Thomas was elected and it was Taylor who first instituted the suit on behalf of the State of Texas and employed Stribling to assist him—hence the confusion of Taylor's name with Henry's.]

ANTIDOTES FOR BAILEYISM.

The private pick-pocket picks private pockets, but the public political pick-pocket picks all the people's pockets.—*The Author*.

So nigh is grandeur to our dust, so near is God to man, when duty whispers low, "Thou must," the youth replies, "I can."—*Emerson*.

This is the feeling that gives a man true courage—the feeling that he has a work to do at all costs; the sense of duty.—*C. Kingsley*.

The superior man is slow in his words and earnest in his conduct.—*Confucius*.

The more you speak of yourself, the more you are likely to lie.—*Emerson*.

Do you wish men to speak well of you? Then never speak well of yourself.—*Pascal*.

The personal pronoun, "I," might well be the coat of arms of some individuals.—*Rivarol*.

We should ask concerning those who seek public office, not so much as to their party affiliations, as to whether or not they are honest men or grafters.—*The Author*.

A sudden lie may sometimes be only manslaughter upon truth; but by a carefully constructed equivocation truth is always, with malice aforethought, deliberately murdered.—*Morley*.

From the errors of others a wise man corrects his own.—*Publius Syrus*.

To make no mistakes is not in the power of man; but from their errors and mistakes the wise and good learn wisdom for the future.—*Plutarch*.

Evasion, like equivocation, comes generally from a cowardly or a deceiving spirit, or from both; afraid to speak out its sentiments, or from guile concealing them.—*Anon*.

Example is the school of mankind; they will learn at no other.—*Burke*.

The political boss is a political carbuncle. From his festering fingers flow political pus and putrifaction. These carry with them a fatal gangrene which cause death to civic virtue and political righteousness.—*The Author*.

So act that your principle of action might safely be made a law for the whole world.—*Kant*.

The innocence of the intention abates nothing of the mischief of the example.—*Robert Hall*.

Live with wolves, and you will learn to howl.—*Spanish Proverb*.

Not the cry, but the flight of the wild duck, leads the flock to fly and follow.—*Chinese Proverb*.

Example teaches better than precept. It is the best modeler of the character of men and women. To set a lofty example is the richest bequest a man can leave behind him.—*S. Smiles*.

The political grafter and the political boss, when not twin brothers are one and the same individual.—*The Author*.

Who shoots at the midday sun, though sure he shall never hit the mark, yet sure he is that he shall shoot higher than he who aims but at a bush.—*Sir P. Sidney*.

Lift up thyself, look around, and see something higher and brighter than earth, earth worms, and earthly darkness.—*Richter*.

The language of excitement is at best but picturesque merely. You must be calm before you can utter oracles.—*Thoreau*.

Expedients are for an hour, but principles are for the ages.—*H. W. Beecher*.

I would like to see our public records disclose every official act, and be open to all, to the end that everyone shall know that in Texas public office is the center of public conscience, and that no graft, no crime, no public wrong, shall ever stain or corrupt our state.—*James S. Hogg*.

Burn your instructions and follow your conscience. Conscience is the only sure clue that will eternally guide a man clear of all doubts and inconsistencies.—*Jefferson to La Fayette*.

Party organization, in a government like ours, is quite natural and necessary. The evil, no less than the good, of party organization, however, is confined to no particular party.—*The Author*.

CHAPTER XVIII.

EVIDENCE REVIEWED, ANALYZED AND DISCUSSED—Continued.

PIERCE-BAILEY LOANS NEVER PAID AND ALL CHARGED TO PROFIT AND LOSS ON BOOKS OF THE WATERS-PIERCE OIL COMPANY.

Mr. A. J. Hutchinson, for thirty years an employe of the Waters-Pierce Oil Company, was called as a witness and testified (Bailey Invest. Com. Report, 1907, pp. 761 to 805) in substance as follows:

My home is in St. Louis. I came from Oklahoma City here. My occupation is traveling auditor for the Waters-Pierce Oil Company and have been employed by the Waters-Pierce Oil Company since 1879; have served them since that time, from office boy up. My age now is forty years. In the year 1900 I was general bookkeeper in the St. Louis office and I had charge of the general books of the Company, from the year 1890 until July, 1903.

Mr. J. P. Gruet, Jr., was brought in the office first just as a general clerk and did anything that he was required. From that position he was advanced to voucher clerk in time.

HUTCHINSON EXPLAINS BOOKS TO THE COMMITTEE.

The witness Hutchinson (continuing p. 761)—

Well, you have two accounts payable voucher records here, one journal voucher record. You have two general ledgers and you have the private ledger and journal.

I kept those two general ledgers at the time, and all the other work was under my charge, to a certain extent. I had charge of these books from December, 1890, until July, 1903.

I know from the public prints that I have heard something of a voucher of \$8,000 and one for \$3,300 and one for another sum that I do not recall, and which it was said Senator Bailey was connected with. At the time they passed through the books I did not know anything more about them than the books showed. When they were first made out I knew they were in the books because I had to post the items in the ledgers. There was one voucher for \$8,000; another one was for \$3,300. [Those were the two larger amounts which showed on the face of the transactions that they went direct to Mr. Bailey.] The other voucher, which I do not recall definitely, was a voucher for \$2,067 and some cents. [No one knows what Johnson did with this latter amount, except that he "distributed" it in Texas for the account of the Waters-Pierce Oil Company, from March to June, 1901.]

OTHER WITNESSES COULD BE FOUND IN ST. LOUIS.

The witness Hutchinson (continuing pp. 792-794)—

Mr. Pierce had a clerk at that time by the name of Collins. I

always understood that he took care of his private affairs. I think he is still in St. Louis. Collins left Mr. Pierce's employ previous to the time that J. P. Gruet left the Waters-Pierce Oil Company.

I know J. A. Stewart, Mr. Pierce's stenographer, he is in the St. Louis office now. I have heard that Mr. Collins was with the American Car & Foundry Company.

C. M. Adams was treasurer at the time this \$8,000 cash item passed through the records. He is still treasurer of the Company and supposed to be in St. Louis.

Mr. E. H. Avery was cashier in 1900-'01. He is now assistant treasurer of the Company. [All of these witnesses could doubtless have thrown additional light on Bailey's dealings with the Oil Trust, if the Committee had cared to get their testimony.]

Q. Is the company paying your expenses here, Mr. Hutchinson?

A. I don't know who are paying my expenses.

Q. Are you keeping your account?

A. I certainly am.

Q. With a view of turning it in to the Company?

A. I expect somebody to pay it.

Q. Do you expect your time to go on?

A. I certainly do.

"PRIVATE" BOOKKEEPING METHODS OF THE OIL TRUST.

The witness Hutchinson (continuing)—

By Mr. Cocke:

Q. Why do you use this private ledger in connection with the general ledger—I don't want to drift too far away—and be brief about it, kindly, please, Mr. Hutchinson.

A. So that every Tom, Dick and Harry in the office can't see what is in there. It doesn't belong to them. These books here lay out in the main office where the office boy can go through them if he is the only one there. He has no right to do it.

Q. Well, there are things about the office of such private nature that they are kept under lock and key, so to speak, is that true?

A. These books are always kept in the safe.

Q. Well, how is it you reduced the size so much in transferring from the general ledger—you will pardon my ignorance of bookkeeping, Mr. Hutchinson.

Mr. Odell—Your honor, they will have to run a bookkeeping school here. It develops no possible facts in the general charges. We insist that the general system of the company in keeping these books has no possible reference to the charges made here. It is not insisted that Senator Bailey ever saw the books in his life or an entry in them until they were brought here before this committee and some three or four of these items in question examined. Now, we object in the first place because it consumes time, and in the second place because it is immaterial and irrelevant; and in the next place it is an insinuation in a man's mind of probably how the book ought to be kept, when Sena-

for Bailey here is shown not to have any connection with it. On the other hand, it has positively been shown he had no such connection.

The witness Hutchinson (continuing)—Such items as this \$8,000 voucher can not go through the voucher records; these items passed through the cash book. I do not know why the cash book is not here. The difference between the cash voucher going through the cash book [which they did not produce] and the other voucher here that did not go through the cash book is, one voucher is simply a cash payment and shows the receipt, and enters the cash book, and the other is an accounts payable voucher and goes through the voucher record, requiring some length of time. Cash transactions are disposed of immediately, and will be disclosed by the cash books only, and they would be the original books of entry, of course.

Q. If this committee should undertake to search for the expenditure of a five thousand item, how would we go about it?

A. I presume you would have to go and get all the books they have got and go through them and look for it.

WATERS-PIERCE NEVER REPAID.

The witness Hutchinson (continuing p. 792)—

Mr. Jenkins—Well, the record shows that all these matters were discharged for legal services?

A. Yes, sir. [And yet Bailey admitted to Francis, so Francis swore, that he performed no legal service for Pierce nor the Waters-Pierce Oil Company, but simply practiced influence on account of his (Bailey's) friendship for Francis. What a deceitful fraud, what a shameful subterfuge, what a disgraceful act of traitorism to practice in the name of friendship!]

WATERS-PIERCE OIL COMPANY NOT IN MONEY LENDING BUSINESS.

The witness Hutchinson (continuing p. 775)—

Q. Do you know whether or not he had any instructions from Mr. Pierce to keep these papers separate from the usual files of the company?

A. I do not know anything about that.

Q. You won't say he did not, will you, Mr. Hutchinson?

A. I do not know anything about it.

Q. You have said something about inconsistencies and unusual situations. Does not this whole series of transactions involve a somewhat usual list of experiences for the employes of the company in the entries, etc., and in the disbursement of this money?

A. I can not say that it does.

Q. Was the company in the money lending business?

A. Bills receivable will show here how much they had out.

Q. Well, were they in the habit of loaning money to public men?

A. You will find from the records there that there are a couple of employes on their carrying amounts.

Q. But that is not my question?

A. Well, that is lending money, isn't it?

Q. Well, but to public men, I will say.

A. You will find a loan there to some levee district. That is public money, isn't it?

Q. It might be, I am just making the inquiry.

A. That is as far as my knowledge goes.

Q. Well, the company was not in the money lending business, was it?

A. They were not money lenders.

HANGER AND ODELL OBJECT AS USUAL TO TURNING ON THE LIGHT.

The witness Hutchinson (continuing on p. 771)—

Q. You testified a while ago that the aggregate amount charged off to profit and loss as a result of expenses having been incurred on account of legal expenditures as being \$11,500, June 30, 1900. Can you readily turn to the journal there and analyze for us the items constituting that \$11,500?

Mr. Hanger—We object, because that amount is not to legal expenses, as I remember it. I do not think that ought to go in the record.

Mr. Cocke—I will leave it to the books.

Q. Well, now, can you tell from the journal before you, and if not, where can we find out, what the Waters-Pierce Oil Company spent on account of legal expenses in Texas during the years of 1900 and 1901?

Mr. Odell—Now, Mr. Chairman, as a matter of courtesy to these gentlemen who have brought their books here, we object to an examination of this kind and protest against it as being wholly immaterial and irrelevant.

The Chairman—I think the objection is well taken. I think the question is entirely too sweeping to ask what they spent in 1900 in Texas. I think the question is entirely too sweeping on the proposition of covering the entire years of 1900 and 1901 and showing every legal expense that might be incurred in the State. If you will confine yourself to the charges I will allow the question; but as to the question asked I sustain the objection.

Q. Well, can you tell us from the books before you, and if not, where we can find it, what the Waters-Pierce Oil Company spent in connection with its readmission to the State of Texas in the year 1900 by the way of legal expense?

A. That is virtually the same question asked before, isn't it?

The Chairman—No, it is a different question. Answer it if you can.

(Question read.)

Mr. Hanger—We submit that is the same question.

The Chairman—The question is, can he tell?

A. Well, the records will speak for themselves.

Q. I would like to have them speak. Tell us what the records say on the subject.

A. I will have to go through them for the two years.

Q. I am confining the question now to 1900.

A. I will have to go all the way through the books for the year 1900 to find what is in there on that account and you have not got the books here. [Why did not they bring the balance of the books and vouchers, or let the sub-committee go to St. Louis, Washington and New York and find out the truth about their brilliant Senator?]

The witness Hutchinson (continuing p. 773):

By Mr. Cocke:

Q. Well, can you tell us what part of that \$11,590 was expended by the Waters-Pierce Oil Company in Texas for re-admission or litigation purposes?

A. I can not.

Q. How can we find out?

A. You will have to find out from somebody that has a better knowledge of that than I have, because if they had ten cases here that would be my knowledge, "Texas cases," I would not know what cases they referred to.

Q. Well, you can tell what those fifty-four expenditures are there?

A. No; not without—

Q. Now without what?

A. Unless the vouchers themselves carried the specific information.

Q. Are the vouchers supposedly on file in St. Louis now?

A. To the best of my knowledge they are.

Q. Then, if the committee could find the vouchers that would explain those items?

Mr. Odell: That is an opinion and conclusion, and known to be false that the committee could find fifty-four items there.

Mr. Cocke: I don't see why the word "false" is used.

Mr. Odell: I used it because I meant it. I have sat here and heard you undertake to browbeat and intimidate witnesses as long as I am going to without slapping your jaws.

Mr. Cocke: Well, I declare.

The Chairman: There is no use in talking that way. We will proceed here orderly, and let us get through with this trial. This is a committee acting under the rules of the district court. I think the question is perfectly proper, and I think you are entitled to an answer.

Mr. Wolfe: Now, Mr. Chairman, let me ask a question. There are certain charges made here with reference to the \$1,500 voucher, and the \$3,300 voucher, and \$8,000 note, and I think another one of \$3,150, or something of that kind.

Mr. Robertson: \$3,100.

Mr. Wolfe: \$3,100, yes, sir. That is the Stribling voucher.

Why should not this evidence be confined to the charges, the vouchers and sums of money that are mentioned in the charges? I understood that was the ruling of the Chairman. Why should we take in all the expenditures of the company? It seems to me that the inquiry should be confined to the particular sums of money that are named in the charges.

The Chairman: I think when a question is asked nobody on earth has a right to control counsel in asking the question, and when objection is made I will hear gentlemen patiently and rule positively.

Mr. Odell: Gentlemen are expecting me to protect their records.

The Chairman: If you will make an objection, I will protect the record, and do not let us have unseemly evidences of temper. You have got plenty of time to be patient about it, and I will protect you.

Mr. Wolfe: Now, what was the ruling of the Chairman?

The Chairman: I ruled that the question as I understood it was proper, if the vouchers would not disclose for what the expenditures were made. Now, if they seek to follow up that inquiry by going into details of the vouchers, the way to do is to make an objection and get a ruling on it.

Mr. Cocke: Now, Mr. Hutchinson, will the vouchers supposedly on file with the company in St. Louis give this committee the fullest information obtainable as to those fifty-four expenditures during the first six months of 1900 with reference to the company's legal business in Texas?

Mr. Odell: We object to that, because the books are the best evidence and there are no fifty-four items on the books which can reasonably be claimed pertain to Texas business.

The Witness: I did not testify with reference to Texas cases.

Mr. Odell: And there are certainly none with which we are claimed to be connected, directly or indirectly.

The Chairman: He is not asking him the contents of the vouchers. He is asking if these vouchers would disclose anything if those vouchers would disclose information about it.

[It is to be said to the credit of the Committee that they required the drunken Odell to apologize next morning for the contempt offered the Committee. Every one in the Committee room, when this incident occurred, could well see that Odell was all but beastly drunk. In fact he was frequently perceptibly intoxicated during the proceedings, and yet his boss Bailey is held up by the prohibitionists as a paragon of temperance.]

Q. Well will they? [The fifty-four vouchers in St. Louis, show for what purposes the Waters-Pierce Oil Company spent money in Texas.]

A. I don't know.

Q. Why don't you know?

A. Because I have not got the records before me.

Q. You have testified with a degree of freedom and candor and courtesy, Mr. Hutchinson, with reference to these matters, and do you mean to say now that those vouchers will not be as explicit with reference to the balance of the expenditures as those before us?

A. I do not know at the present time about those vouchers, These speak for themselves, and I will have to see the others to get the same information.

Q. Don't you know as a matter of fact that that is what the voucher is for?

A. The voucher is supposed to show what the expense is for.

Q. Then will those vouchers not show what the expenditures are for?

A. They may show they are for expenditures of money in Texas, but whether it shows any specific case or not, I can not answer the question.

The witness Hutchinson (continuing pp. 783-85) :

Q. Mr. Hutchinson, kindly refer to the books here and see what was charged off to legal expense and then to profit and loss at the close of 1900, you having testified that the expenditures and disbursements for the same purpose at the close of June, 1900, was \$11,590—now see what it was December 31, 1900?

A. December 31, 1900, was \$11,886.68.

Q. And look at the journal on that item and analyze it for us, please.

A. Do you want me to give an analysis of it as it appears here?

Mr. Cobbs: Does that refer to these items that you have been speaking of, these vouchers, any of them?

Mr. Robertson here takes the chair.

Mr. Odell: We object, Mr. Chairman, to what the books of this company would show in December, 1900, on December 31, 1900, for the reason that is a matter not inquired into by us in the first place; in the second place, it is a private transaction recorded in the books of this company that ought not to be made public.

The Chairman: Well, it will be restricted to matters in controversy. Restrict your inquiries, Mr. Cobbs, to items involved here and covered by your charges. We don't care anything about an analysis of outside matters, because in the first place it is immaterial and in the second place I don't regard it as the proper thing.

Mr. Cocke: Did the Chair hear the ruling and discussion last night on the same point?

The Chairman: Yes, sir.

Mr. Cocke: With reference to closing up the books on June 30th?

The Chairman: I understood the ruling to be you could trace any of these items under investigation here anywhere you could find them in the book, and I don't care to limit that at all.

Mr. Cocke: And I could ask about at least the aggregate disbursements.

The Chairman: That has been testified to \$11,000 and odd dollars.

Mr. Cocke: At least the number of items entering into it.

The Chairman: I don't see that it is material unless it relates to this matter.

Mr. Cocke: Of course, in my view of the case, Mr. Chairman, I will state it is material.

The Chairman: I will say this, you can inquire into any matter that is connected with this anti-trust suit at Waco and these entries you have been inquiring about.

Q. Then looking at this footing, for that purpose, can you testify as to what items, how many and what amounts enter into that \$11,800 affect the re-admission of the Waters-Pierce Oil Company into Texas or the litigation then pending in the courts at Waco against the company or against Mr. Pierce?

Mr. Cobbs: Mr. Chairman, I am going to make an objection here as to the scope of these questions. Now, we can not anticipate what expenses have been paid by the company in which this Committee has no right to go on and call in question the rights of other parties. It is enough, Mr. Chairman, to investigate the man charged without investigating everybody else who might be charged or might be affected by something in this testimony reflecting upon gentlemen probably who would want to come here to testify. I don't know to whom any amounts may be paid or anything about that, but I think we will perform our duty when we confine the examination to anything that affects Senator Bailey and no one else, and the scope of that question is so broad and the examination may be leading to so many different avenues that we will be here the balance of the year making this investigation, and for the economy of time and for protecting other people from having their names brought into the newspapers and demanding an investigation that will take up more testimony, I make this objection.

(Here followed a lengthy discussion on the objection to the above questions.)

The Chairman: The witness can answer that question.

A. I can not.

Q. Why can't you?

A. This record does not show.

Q. What does the record show?

A. The record shows certain amounts expended, it does not show what case it is for.

Q. Where can we get that information?

A. The legal department of the company, I presume.

Q. Will the vouchers on file in St. Louis disclose it?

A. Not necessarily.

Q. If they were as full as the vouchers here they would, would they not?

A. Well, all vouchers are not thoroughly explanatory of the

case. We make payments to Judge John D. Johnson and refer to **Texas** cases. We have half a dozen cases here. It does not refer to **which** case it is. His records show that.

Q. Well, all these records here, all these vouchers, are explanatory, are they not?

A. As far as you have them here they are.

Q. Might we not expect to find your vouchers on file in St. Louis the same way?

A. They speak for themselves.

Mr. Cocke: Mr. Chairman, I would like to ask Judge Penn a question as a matter of courtesy to him—I want to look at his books.

The Chairman: Just step over there and ask him in private, **Mr. Cocke.**

Mr. Cocke: I would like Mr. Chairman, to have the privilege of examining the books now before the committee, especially the journals, the private ledgers that show those outlays incident to the re-admission and litigation then pending, and also to have the privilege to carefully go through these voucher records and ascertain whether or not there are any entries contained in these books that would throw light on the allegation that there was a conspiracy between these parties, and that these several sums of money, especially the hundred thousand dollars—

The Chairman: You want permission to examine the books—how long a time would it take you?

Mr. Cocke: It will take some time. I understand counsel have an objection to it.

The Chairman: I understand, just state what you want.

Mr. Cocke: For certain purposes—I don't want to pry into the affairs of the company—for the purpose of ascertaining whether or not there is any data here that would support the charges, and I was only reciting the charges in mind, to wit: the five thousand dollars and the hundred thousand dollars in addition to the items here, and any other items that would throw light on this investigation. I disclaim any intention or any desire to ascertain any data here that would be injurious to this—

ATTORNEY PENN MAKES A PLEA FOR WATERS-PIERCE.

Mr. Penn: Mr. Chairman, these books are brought here voluntarily by the Waters-Pierce Oil Company for the purpose of allowing this committee to go into them with a view of these vouchers that are under investigation before this committee. The company is perfectly willing for the committee to have everything that is in those books with reference to those vouchers, but it was never contemplated that the members of the committee, Mr. Cocke or any one else, should be permitted to go into an exploring or fishing expedition into these books, and it was my understanding at the time that these books were brought here—I was the representative of the company here speaking for them at the time they were first brought here—that it was not the

desire or intention of the committee to undertake to go through these books outside of the entries affecting these specific matters that are under investigation here * * * I am the custodian of them before this committee and on behalf of the company while tendering to the committee the fullest opportunity to examine all entries in these books relating to these vouchers, I must refuse to allow Mr. Cocke or any one else to go into a general examination of these books which will disclose all of the private business of the company, matters in Missouri, Oklahoma, Arkansas, Louisiana and the Republic of Mexico, with the hope of thereby discovering something having a bearing on this matter. If there is some specific thing in these books that has a bearing on this matter, let us know what it is and then you are welcome to it, but we do object to any attempt at going on a fishing expedition through these books.

(Here follows a discussion at great length between Mr. Cocke, Mr. Penn and members of the committee with reference to the above matter.)

The Chairman: I don't think they are admissible, gentlemen. [One of the charges was that Pierce sent Bailey \$5,000 while Bailey was enroute to Texas in March, 1901, to lobby before Texas Legislature against legislation adverse to the Waters-Pierce Oil Company. Another charge was that Bailey had received \$100,000 for his services to the Oil Trust. Now, Mr. Penn objects to our looking through the books of his company to find these items but insists "If there is some specific thing in these books that has a bearing on this matter, let us know what it is and then you are welcome to it, but we do object to any attempt at going on a fishing expedition through these books." If there were no fish in them why would he object to seining, much less to fishing? How could "Mr. Cocke" point out "some specific thing in these books" when he had had no opportunity and was denied the opportunity of examining them? If a man is charged with having stolen goods on his person or premises and he refuses under proper authority to be searched, what inference can we draw but that the stolen goods are there?]

ATTORNEY PENN OBJECTS AGAIN ON BEHALF OF THE OIL CO.

The witness Hutchinson (continuing p. 787):

Q. Passing over, Mr. Hutchinson, to the semi-annual charging off of the legal expense account to profit and loss, June 30, 1901, see first how much was involved in that lump sum.

Mr. Penn: Mr. Chairman, I want to interpose an objection here. This witness states that he is unable to determine from these books what amounts, if any, these expenditures for legal expenses were made in relation to the matters that are under investigation before this committee. That being the case, I offer the objection that it is immaterial here and invading the books of this company, contrary to the understanding under which these books were brought here, to go into these books and ascertain what amount was expended by them for legal matters during any given period.

The Chairman: I understood, Judge, that the question has been asked and answered and the amount given here.

Mr. Cocke: Not for 1901, Mr. Chairman.

Mr. Odell: Three times at least, your Honor.

The Chairman: I don't see that the objection would be tenable, Judge, on that proposition as to the amount of expense; when he seeks to go into details I will sustain the objection.

(Here follows another discussion on the admissibility of the above question.)

Q. Now, read him the question, Mr. Stenographer.

(Stenographer reads the question.)

The Chairman: Can you tell what that was?

A. I can tell what the total legal expense was for that six months.

The Chairman: Go ahead, Mr. Cocke.

Q. That's all I want to know, please, sir.

A. The ledger here shows sixteen—

Mr. Cobbs: I want to urge the objection to that. He can not show the total amount of legal expense. The Waters-Pierce Oil Company may have had a hundred lawsuits in Texas and may have a hundred attorneys employed; it may have to pay various sums of court costs and all this in the aggregate left unexplained would probably be misleading and misunderstood, and require, whenever that sum is shown, an examination of the specific amounts, and the applications where they were—to whom paid, to relieve a possible situation that that might bring by the aggregate amount; and I object to it, because it is immaterial and irrelevant as to developing any fact charged against the Senator in this matter.

The Chairman: I have ruled on the proposition. I think the testimony is admissible, gentlemen. If you want to go to the committee on it—

Mr. Cobbs: Instead of objecting, I just want to enter my protest against that ruling.

Q. How much is the total expenditure during the first six months of 1901, as shown by your journal?

A. \$16,067.94.

Mr. Robertson: Is that for the entire year?

A. The six months ending June 30, 1901.

Q. You are unable to analyze that, are you, from the books?

A. I am unable to state here what the amounts were paid for.

AUDITOR HUTCHINSON TRACES \$2,067 VOUCHER THROUGH SAME ROUTINE.

The witness Hutchinson (continuing p. 782)—

It is voucher F 462, folio 27 on the voucher record. The record here says, "amount paid out in connection with Waco, Texas, personal indictment and penalty suit; also State forfeiture license suit, from March 21, 1901, to June 1, 1901, \$2,067.07." [The question is

to whom did Johnson pay this money?] That item was finally closed out the same as all of the others, through legal expense to the general ledger and from there to profit and loss on the private ledger, under date of June 30, 1901. [Observe that this money was paid by Johnson "in connection with the Waco, Texas, forfeiture license suit." Observe also that it was paid out "from March 21, 1901, to June 1, 1901, \$2,067.07." Now the penalty suit at Waco was dismissed by Judge Scott about the middle of November, 1900, and the Texas forfeiture license suit was closed out by the filing of the mandate of the United States Supreme Court with the clerk of the Supreme Court of Texas, at Austin, April 25, 1900. The same day that Bailey borrowed (?) the first \$3,300 from Pierce. Why then, should Johnson have been paying out money on these matters from March 21 to June 1, 1901? The personal indictment of Pierce before Judge Scott of Waco was the only remaining unsettled litigation at the time this money was disbursed.]

THE WITNESS HUTCHINSON TRACES THE BAILEY-STIBLING \$1,500, JUNE, 1900, THROUGH THE BOOKS OF THE WATERS-PIERCE OIL COMPANY TO ITS ULTIMATE DISPOSITION—PROFIT AND LOSS.

The witness Hutchinson (Continuing p. 769)—The \$1,500 voucher is recorded on folio 16, voucher F 86, voucher record 25—folio 16 means page 16, under date of June 15, 1900, voucher F 86, "Henry & Stibling, Waco, Texas, fee account of State of Texas vs. W. P. O. Co., at Waco, \$1,500." There is no other explanation and the amount is charged to legal expense, in general ledger No. 6, folio 322. That entry is made June 15, and is closed out to profit and loss on the private ledger June 30, 1900, just 15 days after the entry was made. The entry was made by myself but I was the general book-keeper at that time. It is carried to profit and loss in the total item of \$10,590.52, covering the legal expenses for the six months ending June 30, 1900.

Q. The question was the expenses incident to the re-admission of the company into Texas.

A. That is the only one I have a record of here.

Q. Do you say that is an expense incident to that?

A. Yes, sir; the voucher record carries that information on it—"Fees account of State of Texas vs. W. P. O. Co., at Waco."

I am here to testify to the correctness of these entries here and follow them up through the books.

Q. Then we are to understand that there is nothing unusual or inconsistent with the due order of business in the notation referred to as having been made by Mr. Naudain?

A. No; you will find on a great many vouchers where papers have been detached for different purposes.

Q. If Mr. Pierce had wanted the draft that was attached to those papers in the manner of conducting your clerical affairs, would he likely have called on Mr. Gruet for it, being at the head of the accounting department?

A. He certainly would.

Q. How is that, sir?

A. He certainly would.

Q. Then there is nothing unusual in making the request on Mr. Gruet's part on Mr. Naudain to let him have that draft for delivery to Mr. Pierce, is there?

A. No, sir.

Q. No suspicion to be cast upon it on that account?

A. None in my mind.

Q. Have you any explanation to offer the committee as to why this receipt taking the place of the voucher should be dated June 15th?

A. No, I have no explanation to make, other than that the result would naturally follow that the receipt would be dated the same as the vouchers.

Q. Even though it was dated in November when the draft was detached?

A. Yes, sir.

Q. There would be nothing inconsistent in that, would there?

A. No, I don't think so.

As bookkeeper of that concern, that last endorsement on the bottom of the \$1,500 voucher, "draft attached," would indicate that there had been a draft attached to the voucher by the cashier after it had passed through the voucher department.

THE WITNESS HUTCHINSON TRACES \$8,000 BAILEY LOAN ACCOUNT
"TEXAS LEGISLATION" 1900.

The witness Hutchinson (Continuing p. 765)—

The first record we have of the \$8,000 voucher is in the ledger. It is posted under date of March 6 from the cash book, folio 119, \$8,000. [That was just 2 days after Pierce had written Gruet from New York (March 4, 1901) "have given Bailey my check" for \$8,000. Just six days after Bailey had executed it at Washington, D. C., March 1, 1900, his little promissory note for \$8,000 which finally took the course of all these dealings and found its way to the profit and loss account of the Waters-Pierce Oil Company.

The first place, this entry of Pierce is in the ledger. We have no other book of original entry *here*. Under date of March this cash book, folio 119, \$8,000, charged to bills receivable, folio 246 on the ledger, that is, ledger 6, page 246. I made this posting.

Ledger 6 is discontinued December 31, 1901, and ledger No. 7 opened January 2, 1902, which shows the transfer from one ledger to the other, \$8,000 to bills receivable. Voucher F 36 transfers it from this ledger No. 7 to the *private ledger*, June 30, 1902,—See private ledger A—1, page 3, June 30th, where it is charged off to profit and loss.

We have not got that personal voucher record here. There is an entry under date of June 30, 1902, charged to profit and loss, bills

receivable \$8,000. The original entry was made by myself. It indicates it was charged to profit and loss, \$8,000. That is the last entry on the books referring to the \$8,000 voucher.

STANDARD OIL AUDITS BAILEY'S LOANS.

The witness Henry (continuing pp. 778-779) :

Q. Then this voucher was audited and this disbursement approved in December, 1902, after it matured June, 1901, and after it had been charged off, charged first to bills receivable, then to legal expense, and then finally charged off to profit and loss, June 30, 1902?

A. The audit to December, 1902, had nothing to do with approving the voucher. That didn't come in the province of the auditor to approve whether the voucher was made or should be paid, or anything like that, it just simply proved the voucher had been properly put through the books and proper entries made.

Q. What was the purpose of the December, 1902, audit?

A. It was an audit made periodically, went over the books to see that the entries were properly made and all the work taken proper care of.

Q. Did the auditor complain to you when he handed you the account there was anything wrong with this disbursement?

A. None whatever.

Q. Was that a Standard Oil Company auditor?

A. I don't know who it was; it was Mr. C. W. Norman, is my recollection.

Q. Do you know who Mr. Norman was representing in this auditing?

A. No.

Q. Then are you to draw any suspicious inference from the appearance of J. W. B. when it is in an exact accord with the body of the voucher?

A. No; you will not draw any inference from that, but you naturally violate the general rule of the book that this does not show anything of the kind except that one item.

Q. Well, the book is made to conform to the voucher, isn't it?

A. It is made to conform to the other books.

Q. And to the voucher?

A. Yes, sir.

Q. This is the original entry, isn't it?

A. It is.

Q. And this in no way changes the fact of what it is?

A. I don't think so.

Q. Well, as the head of your accounting department, had not Mr. Gruet the authority to make any entries he thought proper that would amplify or explain any of these references?

A. I would not question his authority.

The items charged off to profit and loss from the private ledger

to total legal expenses for the six months ending June 30, 1902, was \$16,110.75. This includes the \$8,000 item, as well as \$8,110.75 and the two constitute the amount of legal expense charged off at that period.

A. Well, if it had been paid—

Q. Then what would you have done with it?

A. If it had been paid then the account should carry the credit. That is, if the amount had been paid and the company got the money it would naturally be credited to same account to which it was charged when it was paid out.

Q. Do those books show that?

A. They do not show it.

WITNESS TRACES \$3,300 TRANSACTION.

The witness Hutchinson (continuing p. 763) :

This entry here [in voucher record No. 25 which the witness was examining] of date June 30, 1900, voucher F 462, in favor of H. C. Pierce, \$3,300, is carried over here to "bills receivable" in the general ledger. The item \$3,300 is posted on folio 246 of the ledger under date of June 30, voucher F 462, initials J. W. B., from voucher folio 27, \$3,300. The notation there "J. W. B." is in my handwriting and is to designate the items so that they can be readily identified. The next disposition of the item is on October 31st, journal voucher K 631, journal voucher folio 120, this \$3,300 is transferred from his account [Bailey's]. Bills receivable is credited with \$3,300 and it is charged to legal expenses in the handwriting of W. H. Glancy. He was chief clerk in the office at that time, and during this month I was in Mexico City, and he was in charge of the books at that time. The item goes to ledger 6, page 323 and was charged to legal expense. From there the item was charged to profit and loss in June. [This means that they carried Bailey's receipt or note, as the case may have been, for \$3,300 for four months and then at its maturity, instead of having him or Pierce pay it back to the company, they simply charged it to legal expense and legal expense was afterwards, on December 31st, charged to profit and loss, as will afterwards appear.]

This entry was made by Mr. Glancy during my absence. He had charge of the work.

Yes, sir; there is another record in the books of this \$3,300 voucher. We left off where the voucher was here to legal expense October 31st, voucher 861, transfer of account folio 130, \$3,300—cash book 126 is not here—

Q. Now, is that the final entry that you have with reference to this item?

A. No, this is where the entry from the general ledger goes from this into the private ledger.

Q. All right, the private entry, if you have it.

A. Under date of December 31, 1900, legal expense was closed

out of this ledger into private ledger by voucher No. —; total amount \$11,888.68.

Judge Poindexter: What book is that—private ledger what?

A. A-1. The journal entry for that distributes this \$11,888.68 to ten different accounts. I am on folio 39 of the private journal. This journal entry here is distributing \$11,888.68, and it is distributed to ten different accounts. The \$3,300 is embodied in an item of \$11,237.27, and is charged to profit and loss.

Q. At what time?

A. December 31, 1900. [The proponent of the charges afterwards tried to find out from the witness what the balance of this \$11,237.27 was spent for but inasmuch as the vouchers for the money were in St. Louis the witness could not tell and the committee finally refused to send the sub-committee North and East where it might have found out these things.]

All legal expense items are closed out in June and December and distributed to their proper accounts.

Yes, sir; profit and loss is the final entry on the books with reference to this item.

The \$3,300 voucher would indicate on its face—would lead me to believe Mr. Pierce had made the payment to Mr. Bailey and was getting a return from the Company.

A. It is signified to my mind that Mr. Pierce had advanced the money out of his personal—

Mr. Looney: I don't think we can try this case on inferences and conclusions.

The Chairman: He is testifying as an expert bookkeeper as to what the books indicate.

Senator Looney: I understand that an expert's testimony is admissible only on an expert proposition. Any man can judge of that. If you propose to introduce him as an expert—

The Chairman: I understood that is the capacity in which he is testifying.

Senator Looney: Then I raise the objection that this is not a scientific proposition that an expert knows anything more about than any other common layman.

The Chairman: I overrule the objection.

Q. What does it indicate, Mr. Hutchinson?

A. It indicates that Mr. Pierce had made a payment that was proper for the company to make, and was being reimbursed by this voucher.

Q. What does the \$3,300 entry mean, just in plain English? Does it mean Mr. Pierce had loaned \$3,300 for the benefit of the Waters-Pierce Oil Company and had taken a note and turned the note over to them or had taken a due bill or some evidence of indebtedness?

Mr. Cobbs: I think I will object to that question, asking for a conclusion of a witness who is a bookkeeper, whether or not it was done for the benefit of the Waters-Pierce Oil Company.

Mr. Jenkins: I am not asking for whose benefit it is done.

Mr. Cobbs: I would hate to be tried on questions of that sort, when it is somebody's else transactions, a transaction for somebody else.

Mr. Jenkins: These entries mean something or they mean nothing. We are entitled to know what it is.

Mr. Robertson (as Chairman): I think the question is proper.

Mr. Cobbs: Note my protest to that.

A. The entry shows Mr. Pierce had made some kind of a payment and through this voucher got it from the company.

THE WITNESS HUTCHINSON TRACES \$1,750 BAILEY-PIERCE LEGISLATIVE VOUCHER OF JUNE, 1901.

The witness Hutchinson (continuing p. 761): The \$1,750 voucher is found in voucher record 25, folio 96, under date of June 11, 1901, voucher F 41, "J. W. Bailey, Texas cases, \$1,750." The voucher record here shows "J. W. B." over something that has been scratched out. The original explanation of the voucher has been scratched out and "Texas cases" put in.

Q. Well, now, what would cause the change? That is what I am undertaking to get at.

A. Well, sometimes you would make a voucher and put it in, and you would find your voucher had been paid—the bill had been paid, and the voucher was made the second time and we would pass it through without noticing it, and we would make out the voucher and put it in the voucher record and then we would discover it and go to work and scratch the record out and use that line again for another voucher.

Q. Well, what else?

A. That is about the only reason that there should be a voucher canceled in that manner. [Bailey and his lawyers tried to make a great bugaboo of the crosses on the t's and the dots over the i's but a careful reading of the testimony of their own witness in its entirety will show that there is absolutely no foundation, in fact, for a shadow of suspicion to rest upon or any question to be raised with reference to the substantial regularity of every item involved and its accurate representation and disclosure by vouchers, letters and telegrams and books of the Waters-Pierce Oil Company; and Bailey and his boosters have cried forgery, theft, burglary and blackmail in order to divert the attention of the people from the fearful guilt of this bold, bad man.]

The witness Hutchinson (continuing about \$1,750 item, p. 768) —That item is charged to legal expense on ledger No. 6, page 324, under date, June 11th. It is all my handwriting—posting to legal expense, folio 324, ledger 6, voucher F 41, folio 96, \$1,750. *It follows the same routine through the book to profit and loss.* It appears under January 11 to legal expense and on June 30, 1901, to profit and loss. That is charged off to profit and loss. That is charged off the

whole account, you understand, the whole legal expense for the six months, from June [January, he means,] first to June 30th.

It was charged to legal expense on June 11th, 19 days later it is charged off to profit and loss—it is transferred to the private ledger, to profit and loss, and *that is the end of it*.

Q. Is the voucher register or record made up from the voucher or is the voucher made up from the register?

A. The voucher is made up first.

Q. Then taking this \$1,750 voucher as a basis from which to make your voucher records or register, is it not true that the entries made in the voucher register wherein you claim that the name of J. W. Bailey had been written over a previous erasure, does in fact at this time represent the correct entry to be drawn from this voucher?

A. Yes.

Q. You will find fifty corrections, won't you, throughout that register?

A. I presume so.

Here it is, June 11th, voucher F 41.

Q. Now, what is the body of the reference thereto?

A. J. W. B., Texas cases, \$1,750.

Q. All of which is in your handwriting?

A. Yes, sir.

Q. Now, comparing that entry with the voucher, the voucher being the basis of the entry, and reading, "W. P. Oil Company to J. W. Bailey, Debtor, Gainesville, Texas, for expenses account Texas matters," is there anything inconsistent between the entry as you made it in the book and the body of the voucher as disclosed by the voucher?

A. None whatever.

AUDITOR HUTCHINSON TRACES \$3,100 STRIBLING VOUCHER OF NOVEMBER 21, 1900, TO PROFIT AND LOSS.

The witness Hutchinson (continuing p. 781)—The \$3,100 voucher dated November 20, 1900, is made payable to H. C. Pierce. The voucher reads for amount advanced to J. D. Johnson paid out by him for account of W. P. O. Co., in connection with Waco, Texas, penalty suits. It was the proper routine for the \$3,100 voucher to take the same course as the other vouchers, namely, charge against legal expense and thence to profit and loss.

AUDITOR HUTCHINSON TRACES \$200 PIERCE-BAILEY VOUCHER TO PROFIT AND LOSS.

The witness Hutchinson (continuing p. 780)—This \$200 voucher of date November 23, 1900 [the next day after Francis sent Bailey his \$1,500 draft and \$3,300 receipt and the next day after Stribling collected his \$3,100] in favor of H. C. Pierce, amount paid J. W. Bailey, account Texas cases, was audited by W. H. Galncy and signed in person by H. C. Pierce. It takes exactly the same course. It ap-

pears on folio 323, of ledger No. 6, under November 23rd, and is transferred to the private ledger under date of December 31, 1902, to the general profit and loss account from the legal expense account in the general ledger. It stayed in legal expense from November 23 to December 31 when it was charged off.

Q. Then the only difference in that entry and the \$3,300 entry is that the \$3,300 was carried for a period of four months in bills receivable and then transferred?

A. To legal expense.

Q. To legal expense; and thence at the close of the fiscal year to profit and loss?

A. To profit and loss; they both go through in the same item.

Q. So far as the company's records are concerned, they reach the same end, do they not?

A. Reach the same end at the same time.

Q. And properly so from the bookkeeping records?

A. Yes, sir.

GEORGE CLARK OF WACO TESTIFIES FOR THE STANDARD OIL SENATOR
FROM TEXAS.

MR. CLARK

being sworn, testified (Bailey Investigation Committee Report, pp. 164-170), as follows:

I live at Waco, Texas. I was representing the Waters-Pierce Oil Company in the controversy at Waco, in connection with Mr. Johnson, in criminal and civil cases.

I think that [Clark's letter to Johnson, dated November 15th, 1900, referring to "our friend will probably be there on Monday morning"] refers to Mr. Stribling, but I am not sure. I think it does. I have no idea what Mr. Johnson referred to in his letter of August 2nd, as having "sent on to Bailey and Pierce." I have no idea what he referred to as the "policy agreed on between you and him."

I do remember having written Mr. Johnson that he had best have Mr. Bailey communicate with Stribling; that he was "very restless and dissatisfied at the outcome here on last Friday and threatened, privately, to us, to institute proceedings and have a receiver appointed," and so on. Mr. Stribling threatened very seriously. He was very indignant because the new Waters-Pierce Oil Company had been admitted and the old company had died, and that, of course, was the end of his case. [If his case was dead, why then did they loan Stribling, through Bailey, \$1,500 about the 15th of June, 1900, and pay him \$3,100 in November, 1900?] He was indignant and he threatened to apply for a receivership of the Waters-Pierce Oil Company to extend throughout the State of Texas, and thereby to do something,—I don't know what, now. I wrote the fact to Mr. Johnson, my leading counsel in the case, and informed him what Mr.

Stribling threatened, and suggested to him that, as Mr. Bailey and Mr. Stribling were old friends, and from the same State, and had been to college together, he might get Mr. Bailey to write to him.

The reason I was asking Senator Bailey to help in the matter was because Senator Bailey, as a friendly act, as I understood,—I did not see him and I did not talk with him,—had consented to come down and see if there was any way to get the Waters-Pierce Oil Company reinstated in Texas. It was by reason of the fact that Stribling and Mr. Bailey were intimate friends, had been at college together, at the law school at Lebanon, and were very friendly, and spoke of each other as "Joe" and "Oscar," and for that reason a letter from Mr. Bailey, if one could be procured, *might serve to hold Stribling still until the final proceedings were taken in Judge Scott's court to dismiss the case.* [It seems Bailey possibly put up a job on the Waters-Pierce Oil Company by pretending to negotiate the loan for Stribling of the \$1,500, pocketing the money himself and then "stilling" Stribling by such a letter as Judge Clark suggested. Of course, just how he managed to "hold Stribling still" is one of the undiscovered mysteries of this story.]

I stated to my leading counsel the fact of newspaper agitation and gave the facts, as I understood them at that time, which was my duty as an attorney in the case and in that same connection I wrote him "you had best have Mr. Bailey communicate with Stribling."

O. L. STRIBLING ANGRILY TELLS HIS STORY.

Oscar L. Stribling, a member of the former law partnership of Waco, Texas, known as Henry & Stribling, which firm originally represented the State in conjunction with County Attorney Taylor and later County Attorney Thomas, in the penalty suit against the Waters-Pierce Oil Company, at Waco, for \$105,000, which suit was still pending when Mr. Bailey became sponsor for the oil trust, was summoned by the proponent of the charges to appear before the Investigation Committee of 1907, and testified (Bailey Investigation Committee Report, 1907, pages 338-353 and 360-370) in part as follows:

My name is Oscar L. Stribling, commonly known as O. L. Stribling. I live at Waco and am an attorney-at-law. The firm of Henry & Stribling were employed by J. W. Taylor in 1895, J. W. Taylor then being County Attorney of McClennan county, to institute suit against the Waters-Pierce Oil Company to recover penalties for a violation of the anti-trust law, statute of 1889. The charge [that he had accepted \$1,500 from the Waters-Pierce Oil Company through Bailey in June, 1900, and \$3,100 from Johnson in November, 1900] is an infamous one. [Like Curtis Oates, described by Macauley as carrying the "highest head in all England" and like Bailey, the bluffer, the witness was crying "persecution."]

That suit was finally disposed of in the District Court of McClennan county about the first of November, 1900. My connection with that case ceased about the last of October, the 28th of October, 1900. There was an attempted settlement made of the case in May or June. The first information I had with reference to an effort to settle this

case by compromise *was through Senator Bailey*. On Sunday, the last day of April [1900], I received a telegram from Senator Bailey, sent from Parson, Kansas, asking me to meet him in Hillsboro on the Katy Flyer and ride as far as Waco with him; that he wanted to see me. I could not go on account of sickness, so I telephoned Judge Nelson Phillips, at Hillsboro, to meet Senator Bailey at the train and tell him why I did not come. Of course I did not know what he wanted with me. * * * I took it for granted it was political matters. That afternoon Mr. Henry came to my house and I told him about this telegram and asked him to go to the train that night and meet Senator Bailey and explain to him why I could not meet him. I was sick myself—nothing serious. The next morning I met Senator Bailey and Mr. Henry. He persuaded Senator Bailey to get off and spend the night there in order that he might talk with me the next morning. Senator Bailey, I believe, said that he was going to Austin, the next morning. Something was said—he had promised Pierce, I believe, to speak to me about compromising this case.

I went into a conference with Mr. Henry and Thomas, [that was after Bailey had gone on to Austin and come back again to Waco] the County Attorney, and Judge Scott, the District Judge. Henry and I finally concluded, with Judge Scott's endorsement, that \$10,000 to the State and if Pierce paid our fee, would be a reasonable compromise. * * * Thomas at that time wanted to hold out for \$25,000 but Henry and I first suggested \$12,500. * * * Thomas thought that the settlement was not proper; it was too small and we never could agree on the settlement.

Senator Bailey left to go to Austin and came back to Waco either the 3rd or 4th of May. We only got to the proposition of taking \$10,000 for the State and paying our fee. That was the first day that Senator Bailey was there.

Senator Bailey said that he had no interest in the matter [he then had at least \$3,300 of Pierce's gold and his interest in the matter seems to have grown into the hundreds of thousands of dollars since], *except in a friendly way*. * * * My recollection is when he left there, that I requested him to come back, and to stop off on his way back from Austin.

We recognized the County Attorney's power to fix the amount that the suit should be settled for, and while we did not agree with him in his views, still we recognized that we had to acquiesce in those views. [That is doubtless the reason Stribling retired from the case, having sold out to the other side.]

SAYS BAILEY DID NOT PAY HIM THE \$1,500 FOR WHICH BAILEY MADE DRAFT ON WATERS-PIERCE, JUNE 13TH, 1900.

I never received a five-cent piece from Senator Bailey in my life, and that charge filed there, which this Committee is investigating, is an infamous lie. [Then what did Bailey do with the \$1,500 and

what did Johnson mean when he wrote Clark, on the 16th of June, 1900, that "I have arranged at least for the time being to satisfy Henry & Stribling"? If Bailey did not pay Stribling the money, he must have misapplied it to his own uses and "satisfied" Stribling with "chin talk" or promises of money after the case should be dismissed.]

I never received any money from the Waters-Pierce Oil Company or anyone else in connection with that matter, at that time or after that time, not one five-cent piece, either directly or indirectly. * * * Senator Bailey never, as I said before, mentioned the litigation to me after the first of May, *except here in Austin at the State Convention*, he merely asked me if the matter had ever been settled, something of that sort. [The State convention to which he refers, met in Austin, June 21st, just eight days after Bailey had drawn \$1,500 from the Waters-Pierce Oil Company with which to "satisfy" Stribling's "restlessness" "for the time being." This is an admission from Stribling that Bailey was still interesting himself on behalf of his client, the Waters-Pierce Oil Company, and doubtless in pursuance of "the policy agreed upon" between Johnson and Clark.]

STIBLING GOES TO ST. LOUIS AND COLLECTS THIRTY-ONE HUNDRED DOLLARS.

I went to St. Louis in November, for the purpose of seeing Mr. Johnson on a matter of business, not connected in any way with the suits at Waco or any litigation then pending against the Waters-Pierce Oil Company and Mr. Johnson paid me \$3,100 for services *to be rendered in the future*. [Isn't this too funny.] Had no connection with this litigation at all. There was an item of expense of \$100 included in the \$3,100. [Leaving the \$3,000 that Johnson, Pierce and Bailey had proposed to pay to Henry & Stribling in May, in consideration of their agreeing to a compromise of the suit. As it turned out Bailey seems to have gotten \$1,500 from Johnson which he was supposed to have paid to Stribling and Stribling finally got his \$3,000 in November and Congressman Henry, be it said to his credit, has gotten only an unpleasant deal of notoriety.]

At this point the witness was asked if he had any objection to telling what the \$3,100 was for. To which he replied, "None at all." Mr. Odell immediately arose and objected, saying: "Now Mr. Chairman, just a minute, I don't think it should be made a part of this record in a case where Senator Bailey is under investigation. We make no objection to it, of course, if Mr. Stribling wants to state it." Then why was the objection so strenuous and why did he continue to object and wrangle for hours, as shown by pages 333-351 of the Committee's Report, which finally resulted in a Star Chamber executive session in order to keep Stribling's testimony out of the newspapers and out of the record. Odell, Bailey & Company, however, were finally forced to capitulate and Stribling was recalled as a witness and required to tell the preposterous, and, it is believed manu-

factured, story of Johnson having employed him as a lobbyist before the Twenty-Seventh Legislature at a retainer fee, in advance, of \$3,000. It is believed that this story was simply conjured up in order to explain away the fact that the Waters-Pierce Oil Company had bribed Stribling to keep him "quiet" during the year 1900.

STIRBLING TESTIMONY CONTINUED.

(page 334)

I don't recall whether he [Bailey] said Pierce or Francis requested him to assist in settling those suits, but I am under the impression that he said that he had promised Mr. Pierce that he would speak to me about it. My recollection is that Johnson, Pierce and Bailey came here on the night train. I think I met Senator Bailey in my office. We discussed the matter over, that is, the settlement with Pierce.

I don't think Johnson, Pierce and Bailey stayed at Waco over one day. I could not say about their leaving there together, I do not know.

After the first settlement failed, Pierce and Johnson came back to Waco. [Friday, June 1st, 1900.] I understood from their statement that they had been here to Austin and had a new permit issued. * * * I recognized the fact that on account of the corporation having dissolved, our suit being for a penalty, that it was very doubtful if we could prosecute it successfully, and I felt like they ought to have settled that penalty suit. I did not feel very good over the matter. *I did threaten to put it in the hands of a receiver.*

I think I was employed by the Waters-Pierce Oil Company about the 20th or 21st of November. I have no objection to stating what that service was. [But Messrs. Odell, Bailey & Company did object by exclaiming, among many other things: "When is this investigation to end, and how far is the inquiry to go? * * * Why satisfy the curiosity of these gentlemen, why? * * * Surely there ought to be some limit to confine at least the curiosity of these gentlemen about a transaction that Senator Bailey is not concerned with, and I object to it for that reason." If the inquiry would not affect Senator Bailey adversely why did Odell make objection after objection simply to curb "the curiosity" of the proponent of the charges and his attorneys.]

At this point in the testimony of Stribling, Judge James H. Robertson, then the admittedly retained attorney of H. Clay Pierce in the indictment which was pending against him at Austin for false swearing, and the same Robertson who now turns up as the retained attorney of the Security Oil Company, which is being sued by the State of Texas as a secret arm of the Standard Oil, said: "I suggest that Mr. Stribling step apart with Mr. Crane and impart this information, and not become a part of the record, unless it is material." (page 338.)

Mr. Stribling—Suppose I write you, General, something about it? [Note the sly fox-like evasive suggestion of Stribling.]

Mr. Crane—No; *I do not care for any private conferences. It is perfectly legitimate cross-examination.*

Mr. Odell—The point we make is that Senator Bailey has *some* rights here. He is the man that is being investigated.

Senator Looney—I do not think it is proper to ask Mr. Stribling to discuss his private business.

Mr. Odell—Now, as I say, whether proper or improper, and *assuming it to be proper*, is the burden on us here to have a private transaction of Mr. Stribling inquired into.

Mr. Crane—If I understand this witness, he testified that *the amount of money he got was \$3,100?*

Witness—Yes, sir.

Mr. Crane—Isn't there a voucher in the record of \$3,100?

Mr. Odell—Certainly.

Mr. Crane—Didn't Mr. Johnson refuse to disclose what *that \$3,100 was spent for?*

Mr. Odell—Mr. Johnson stated that the \$3,100 was a private transaction and the Committee, after hearing a full statement from him that it was a private transaction and wholly legitimate, with Mr. Stribling here, and wholly disconnected—

Senator Stone—[A Bailey partisan member of the Senate Committee]—I would suggest that this Committee go into executive session, and everybody be excluded from the room except the members of the Committee, *and then we will hear Mr. Stribling.*

Mr. Crane—Does that mean the attorneys get out, too? I protest against that.

Mr. Chairman—I suggest Mr. Crane allowed to be present.

Senator Looney—I put this matter up to the Committee—

The Chairman—*I am not going to let a sensation grow out of this*, and I will have an executive session and will see whether it is proper testimony or not, and so that no question can arise I will permit the attorneys and Senator Bailey to remain in the house.

Thereupon the executive session of the Committee was held as directed by the Chairman. Upon reconvening in open session the examination of Mr. Stribling was resumed, as follows:

I do not recall any bills particularly that affected the Waters-Pierce Oil Company before the Twenty-seventh Legislature in 1901. I did not appear before a Committee of that legislature in the interest of the Waters-Pierce Oil Company. *I did convey information to Mr. Johnson in respect to legislation*, but I do not remember about what bills. [And this is doubtless how the witness, Stribling, earned his \$3,100. Not by lobbying even; simply by "conveying information to Johnson." Then it was, doubtless, that Johnson must have wired Pierce in New York, that the Texas Legislature was after the Waters-Pierce Oil Company and forthwith Pierce made Bailey the \$8,000 "loan" and Bailey hurried to Austin to do the lobbying himself.]

I did not conduct any litigation for the Waters-Pierce Oil Company during the year of my employment, beginning in November,

1900, and ending in November, 1901. I decline to answer your question as to whether or not I performed any legal services whatever for the Company during that time. * * * The service that I performed for them *was a matter of private business* between me and the Waters-Pierce Oil Company and I decline to state anything further. I have said to you that I did not perform any service for them connected with any litigation. * * * I decline to answer your question because I do not think it pertinent.

Mr. Odell—I want to ask this gentleman [Mr. Crane] if he expects to prove that Senator Bailey in any way in the world was connected with this private matter about which he is inquiring and interrogating this witness? If not, we object to it.

Mr. Crane—I am asking the witness in connection with the record as it is.

The witness, Stribling—*It was entirely a private matter.*

Mr. Wolfe—I object because this is but an indirect method of getting the very thing that was ruled out in the executive session.

Mr. Crane—I will take the ruling of the Committee on that proposition. The roll was called and the ruling of the Chairman, excluding the testimony, was sustained by the following vote: To sustain: Cobbs, Patton and Wolfe—three. Against sustaining: McGregor and Robertson—two. Jenkins, absent.

The witness: I did not report to anybody else with reference to business down here, [Before the Twenty-Seventh Legislature in 1901] except Mr. Johnson.

Mr. Crane—Now, for the purpose of getting the matter into the record, I wish to ask—and for no other purpose—I presume the Chair will rule it out—what was your employment with the Waters-Pierce Oil Company during the year, and when did it begin and all about it?

The Chairman—I overrule the question for the same reason.

THE COMMITTEE LOSES ITS NERVE AND RECONSIDERS.

(Bailey Investigating Committee Report, 1907, page 361.)

After the incidents above described, on the next day Judge Poin Dexter concluded, at the instance of the majority of the Senate Committee it is thought, which majority was against Bailey just as a majority of the House Committee was for him, that the Star Chamber Executive proceedings of the previous night were ill advised and improper, and so expressed himself to the Committee. Thereupon a general wrangle ensued in which Odell, Bailey & Company became obstreperous and pale-faced, in turns, and as a result of which the Committee concluded to recall Mr. Stribling and require of him to disclose the nature of his employment by the Waters-Pierce Oil Company, in consideration of which the \$3,100 was paid him, immediately after the dismissal by Judge Scott of the penalty suit at Waco.

Mr. Stribling said:

I was to represent the Waters-Pierce Oil Company in Legislative matters that might come up during the session of the Legislature, in

appearing before Committees on any bill that might affect their interests, provided that the bill did not involve any matter that was involved in the litigation at Waco, in which I was attorney for the State. In addition to that, I was also to represent the Waters-Pierce Oil Company during that year, in any litigation that they might have in the Courts of Texas. [What had become of Clark & Bollinger?] and for further compensation, if this amount was not sufficient in my judgment and Mr. Johnson's, the fee was to be agreed upon as the service was performed—this was about the substance of it.

The money was paid to me by Mr. Johnson. I had no communication with any other party connected with the Waters-Pierce Oil Company in reference to the matter. Mr. Henry had no connection with the matter and knew nothing about it and never got one cent of the fee. [Congressman Henry in June, 1900, was attending to his duties at Washington. Stribling was in Waco, according to Clark's letter to Johnson, on the 5th of June, 1900, "restless and dissatisfied. Threatening receivership proceedings and to allege fraud in the readmission of the Waters-Pierce Oil Company"—hence the Waters-Pierce Oil Company were interested only in "quieting" Mr. Stribling, personally.] I don't know anything about it, of course, *I presume Senator Bailey had nothing to do with the employment.*

I never received any communications, and I did not want to receive any communications, from Mr. Johnson in reference to the matter. *I preferred a personal interview.*

I was in St. Louis, November 20th or 21st, 1900. The penalty suit was disposed of [at Waco] between the first and 6th of November. I received no telegram at all. Mr. Johnson when he left Waco [after the penalty suit was dismissed], after we had this conversation that I mentioned—I think something was said at that time about me coming to St. Louis or that he would see me when he came back. I have given you my reasons for going to St. Louis; it was purely a voluntary act on my part, except what was said between Mr. Johnson and myself.

STIBLING, LIKE BAILEY, ALSO ASKS FOR AN "EXONERATION."

I will just say this to the Committee that I feel very much outraged at the charge that has been made against me in such a wanton way that it relates—reflects upon my professional integrity, and I desire that record to show that I deny in the strongest terms possible, having any knowledge of the transaction contained in the charge, with reference to the fifteen hundred-dollar voucher, and that I know nothing about it, and didn't have any connection with it whatever, and there were no dealings between myself and J. D. Johnson, or any person connected with the Waters-Pierce Oil Company or H. C. Pierce, that would justify an entry of that sort on their books. I desire, and I ask this Committee in this connection, in making your report, if you think the testimony justifies, *that you expressly exonerate me from that charge.* It is a pretty serious matter, as I take it, for any person

lie a charge of that sort against another one, unless there is absolute of. I think the matter should receive the condemnation that it deserves. [Then what became of the \$1,500 drawn by his friend Bailey with which to "quiet all Texas parties?" Like Bailey, when sin had found him out, he, too, cried "persecution."]

STRIBLING ON HIS DIGNITY.

(Page 369.)

Mr. Cocke—How long have you known Senator Bailey, Mr. Stribling?

A. Am I to answer that?

The Chairman—Yes, sir, go ahead.

A. I prefer to answer questions from Mr. Poindexter.

The Chairman—Well, I will ask you to answer the questions, in respect to the Committee.

A. I will answer I have known Senator Bailey since 1882.

Mr. Cocke—You were young men together, and friends, were you not?

A. We were at college together.

Mr. Cocke—Is that the first time you met him?

A. Yes, sir.

Mr. Cocke—At college?

A. The first time I met him was at Lebanon, Tenn. I was a member of the literary department of the Cumberland University, and Mr. Bailey was a member of the law department.

Mr. Cocke—When you said a while ago that Senator Bailey knew nothing of your monetary dealings with Mr. Johnson and the Waters-Pierce Oil Company, you were not undertaking to say that Mr. Johnson or Mr. Pierce might not have so advised, are you?

A. No, sir.

Mr. Cocke—That's all.

Q. One more question, Mr. Stribling, did it occur to you as anything unusual or out of the ordinary, that the Waters-Pierce Oil Company should pay an attorney for the services described by you, three thousand dollars in advance, Mr. Stribling?

A. I think it would have been very unusual to have paid some attorneys that, *but it didn't occur to me it was anything unusual to pay me.* [This sounds decidedly Baileyesque. Injured innocence was his duplicitous role.]

Q. Do you know whether they have ever had such an attorney [lobbyist] in this State since that employment, and under such employment?

A. No, sir, I do not.

JUDGE SAM R. SCOTT DESCRIBES HIS CONNECTION WITH THE CONTROVERSY.

Judge Sam R. Scott of Waco, Texas, the District Judge before whom the penalty suits and criminal cases were pending at Waco when Bailey interested him-

self therein, in May, 1900, appeared before the Committee February 4th, 1907, and testified (Bailey Invest. Com. Report, 1907, pp. 515-536) in part as follows:

I am Judge of the Fifty-fourth district court; reside at Waco, Texas, and have been presiding judge of that district since 1893, including the years 1900, 1901 and 1903.

Mr. Bailey told me at Waco, May 1, 1900, that he told Mr. Pierce that if his company was in no wise connected with the Standard Oil Company and he was willing to go into the State of Texas and obey our laws, that he knew the people of Texas would not require them to leave the State; that they had no disposition to drive any legitimate enterprise from the State, and he said that all they needed was to be assured that they would obey the laws of Texas, and that would be all that the people of Texas would want; that Pierce had assured him that was his desire and that the trouble he had gotten into was a matter that he actually had no knowledge of; that it had been brought about by one of his agents, which the head office at St. Louis did not know anything about; in fact, he would guarantee that nothing of that kind would take place, and that that was the purpose for which he was there, to do what he could to assist him in getting his trouble settled. That is the conversation I had with him.

The first time Mr. Bailey was down there, we were in Mr. Henry's office, I think about the time that the Senator had made this statement, or the substance of it, and Mr. Henry said something—I think Mr. Bailey had stated that Mr. Pierce had said that he was the entire owner of the Waters-Pierce Oil Company and that in some investigation—either congressional or some legislative investigation, I am not sure which, I think probably Rockefeller had testified that he owned 51 per cent.—

Q. Who owned?

A. The Standard Oil Company owned 51 per cent. of the stock, and Mr. Bailey says, "Can you—have you got that statement?" and Henry says, "Yes, I have got it." And he says, "Get it for me." He says, "Pierce tells me that is not true, and, if you can show me where it is true, I will go in there—" Mr. Pierce was at that time in Judge Clark's office, in the same building—"I will simply go in there and tell him he has simply lied to me, and I will have nothing further to do with him." Henry went in his book case and got out a volume and turned to what evidence he referred to and Senator Bailey sat down and read it and after he got through reading it he said to Henry, he says, "Is this all the testimony you have on that matter?" And he says, "Yes, that is what I referred to." "Well," he says, "Bob, this don't sustain your position at all, but, on the contrary, it shows the reverse." They discussed it at some length and finally Mr. Henry agreed with the Senator—that he was correct. So they dismissed the subject on that occasion.

[If the above statement represented the real attitude of Mr. Bailey at the time, why is it that he has never denounced Pierce, but, on

the contrary, has clung to him ever since it has been plain even to our blind Joe that Pierce lied about it? Answer: Simply because Joe was bluffing all the time and still is.]

After Mr. Henry and Mr. Stribling severed their connection with the penalty suit, they had absolutely no connection whatever with the business so far as the court was concerned, at all, and whatever arrangement he made after that with the Waters-Pierce Oil Company, if he wanted to charge them \$5,000 and they wanted to pay it, it is a matter of agreement between them. [Birds of a feather flock together.]

JUDGE SCOTT A PARTISAN POLITICIAN IN SPITE OF HIS JUDICIAL POSITION.

The witness Scott: At a meeting of Mr. Bailey's friends in Waco, after they had ordered the second primary election [December, 1906], they met and decided that I should take charge of the campaign in that county and I accepted it with pleasure. Yes, sir; I did introduce Mr. Bailey this summer at Marlin; I did that on frequent occasions several years ago, and I did it this time, and I would do it tomorrow if I got the chance. [As a matter of course.]

Q. Wasn't it a fact, not then disputed, that the Standard Oil Company had an interest in the old Waters-Pierce Oil Company?

A. Mr. Pierce was disputing it very strenuously at the time.

Q. Did you know that Mr. Pierce had testified by deposition in the case here and by deposition in the case in your court that a part of that stock was owned by the Standard Oil Company and by its men?

A. No, sir.

Q. You didn't know that?

A. No, sir.

Q. Did you know that the document filed showing the increase of the stock of the old Waters-Pierce Oil Company from \$100,000 to \$400,000 showed that parties connected with the Standard Oil Company did own a part of the Waters-Pierce Oil Co.?

A. No; I did not know that.

If I had known at the time that Pierce subscribed for the stock of the reorganized Waters-Pierce Oil Company under agreement, by which the Standard was to superintend and audit that business and have him transfer a portion of that stock to somebody named by them in the future when they got ready for it, there would have been an entirely different judgment entered. He assured me that it was not a fact. If such is a fact, fraud was practiced by Pierce upon the State of Texas and upon me in procuring the abatement of that suit, but to which I was in no way a party and had no knowledge of it at all. But if those things are true there was fraud practiced on me. That is the way I consider it; I think it was a fraud, not by Senator Bailey, but by Mr. Pierce. [Bailey was meddling where he had no business. Of course he was not practicing law nor influence for pay—he was simply getting loans never to be repaid or if repaid at all, to be repaid by more influence and more loans.]

Mr. Thomas at no time intimated that he would approve of the idea that Mr. Pierce was to pay the fees of the attorneys; he doubted the propriety of that; he did not think it was the proper thing for him to do.

Mr. Bailey explained how he happened to be there; that he was there for the purpose of enabling and assisting Pierce, if he could, in some friendly way, to settle this litigation.

Q. You did not understand that he was practicing law, did you?

A. No, no, he stated at the time that they had offered to pay him for it, but he told them that he would not accept anything at all, that he was simply doing it as a friend.

Q. Did he say anything about having accepted a loan?

A. No, sir; no, no.

Q. If he was not practicing law, he was practicing something else, wasn't he?

A. Yes, sir; I guess so.

HONORABLE CULLEN F. THOMAS OF WACO TESTIFIES IN 1907.

Hon. C. F. Thomas of Waco was summoned by the proponent of the charges and testified (Bailey Invest. Com. Report, 1907, page 392) in part as follows: [As far as possible the points brought out in Mr. Thomas' testimony of 1901, hereinbefore reproduced, are omitted here].

The first efforts at compromise, so far as I know, were made on May 3rd, 1900. The first person who ever mentioned to me a compromise of the litigation was Senator Bailey.

I thought it improper for Pierce to pay them [Henry & Stribling] a fee of any kind or of any amount. We were acting in a trust capacity—we were representatives of the State—we would be in the attitude of making a fee, a contract for a fee with ourselves for ourselves, which I didn't think was proper.

I went to the office of Henry & Stribling in what is known as the Clark building. In that conference there was Mr. Henry, Mr. Stribling, Mr. Pierce, Mr. Johnson and myself. [That was May 3rd, 1900] we had been there about five minutes when Mr. Bailey came in or *knocked at the door and was admitted to the room by Mr. Stribling*. The litigation was discussed in a general way, back and forth, Mr. Pierce reviewing the troubles, protesting his innocence. Mr. Bailey further said that his sole interest over there was as a citizen of Texas; that he did not want to drive out capital, and wanted to make corporations obey the laws, and that he would like this litigation—would like to see the criminal cases dismissed and would like to see the penalty suit adjusted with such amount to the State as would satisfy its dignity and *also a liberal fee paid to Henry & Stribling as originators of the litigation*.

PIERCE AND HIS DOG RANCH.

After a general discussion of the litigation, the history of the Waters-Pierce Oil Company and its troubles, we wound up with a

very interesting story by Mr. Pierce of how he had invested \$8,000 and lost it in a dog ranch. That was the conclusion of it.

Mr. Henry had signified his willingness to approve of a compromise of \$10,000 to the State, and \$3,000 to his firm. My first reply was that "You have broken faith in so doing." Senator Bailey was present at the time I left those gentlemen together, and Mr. Henry reported that after I left the terms of the compromise had been discussed. I told them that they had broken faith. I said, "I am in no position to demand more in settlement of these suits than \$10,000, when my associate counsel have both agreed that \$10,000 was all they would ask, and the district judge said he would approve that settlement regardless of the amount, the criminal cases will not be dismissed at all, under any circumstances, I cannot be a party to the compromise when you gentlemen get \$3,000 from Mr. Pierce. You are in a position of arguing for a big fee for yourselves and a small judgment for the State, and you are seeking to influence my judgment by tendering me your part of our legal fee." They said, "If you think that it is the fee that we are after, to show you our disinterestedness as to the fee, dismiss your penalty suit and go on and try your criminal cases." Which I flatly refused to do, and said we would fight it out in the courts, whatever the result.

The discussion as to the amount allowed us by law to charge or collect as attorneys was 10 per cent., nothing said about a larger per cent.

I did not know Judge Scott was to be there. [At the first conference on May 3rd, 1900,—the one held in the morning between the attorneys for the State.] I was invited by Mr. Henry to come to his room for a conference with Mr. Stribling and found the judge there. He took very little part in the conference, I think he left us before we had finished. I know he did say as we were attorneys in the case, whatever settlement we made he would ratify as judge.

There was no communication of any kind [after May 3rd, 1900] between myself and anybody as to the litigation, until the first day of June thereafter, 1900. I supposed that all the overtures of any kind were over. Mr. Stribling notified me that Mr. Pierce and Mr. Johnson were again in the city for the purpose of seeking to settle their litigation. He asked me if I was of the same opinion as to settlement, I said, "I am; that time had only confirmed me in the correctness of my position; that under no circumstances would I consent to their taking a fee from the Waters-Pierce Oil Company and if that was the purpose, it wouldn't do any good to see Mr. Pierce." Stribling said, "*He would not compromise the case for the ten per cent allowed by law.*"

We went then to his office again, the office of Henry & Stribling. We found there at that time Mr. Pierce, John D. Johnson, Judge Clark and Judge Scott. [That was the conference of Friday, June 1, 1900.] Mr. Pierce opened the subject. His first words were in substance these: "Mr. Thomas, you seem to be about my only stumbling block now in Texas. I have settled matters down at Austin satisfactor-

ily." He said he had come back in the hope now of settling his Waco troubles, and he said his final proposition was to pay the State a judgment for \$10,000, to pay Henry & Stribling three thousand dollars, and that the criminal cases was to be dismissed. I said, "I will say that under no circumstances can I accept that settlement for myself for the State," and I gave him three reasons. I said, "My first reason is that the law fixes our compensation. We are the counsel for the State. The State pays us; that per cent. goes to them and myself, whatever it may be, and for the attorneys to get \$4,000, myself the ten per cent. of \$10,000, and Henry & Stribling to get \$3,000, makes a total of \$4,000 to the attorneys and \$9,000 to the State. Either our judgment is four times too small or the fee is four times too big."

The second reason was that the judgment proposed was too small. I knew enough to know that in a suit for \$100,000 and more and the offense was continuous, one being based on the Standard Oil Agreement—and that certainly ten per cent. of that amount was a very small compromise but I said I would waive that part of it if other matters were settled, adjusted for the State, I would accept a compromise of \$25,000. That amount he declined to pay. Mr. Johnson said that they had been to considerable expense in the reorganization, in transferring the assets from the old to the new company, and I believe he said it had cost them \$60,000. [That must have included Joe's \$3,300 and how much more we do not know, as well, perhaps, as the stamps and stationery used by the Company in notifying all its employes by the same mail that they were discharged by the old Company but re-employed by the new.]

The third reason was that, as a condition to any kind of settlement—Mr. Pierce's ultimatum was a dismissal of the criminal case. I declined that and I gave him my reasons then; * * * that if he was guilty here as he proposed to plead guilty in the civil suit and as his Company had been found guilty at Austin I could not dismiss the criminal case. I told him further that he had been four years a fugitive from justice and the State had tried to extradite him without success, and he had finally surrendered when this litigation here went against him.

In that connection, Mr. Pierce said that he was surprised that he could not settle with the State, because Senator Bailey had assured him that the proposition he made would be accepted * * * At that time Judge Scott spoke up and said in the conference that he had told Senator Bailey that so far as the civil suit was concerned, he would ratify the proposed compromise, but that he would not consent himself to a dismissal of the criminal case. This thirty-five per cent. [of which you have heard from Stribling in his testimony] *that is an invention, that is an aftermath.*" [Just as the so-called and pretended employment of Stribling to act as a lobbyist for \$3,100 was an invention and an aftermath, designed to cover up the fact that it was a bribe to Stribling.] When Judge Clark brought in his statute and read the provision for twenty-five per cent., there was some discussion,

very brief, as to whether or not the new statute would apply to the old suit, but only mentioned in a casual way. It is not true—there is not a syllable of truth in it—that the contention over the thirty-five per cent. had anything whatever to do with the breaking up of the compromise. [That was Stribling's story.] Nor is it true, as has been stated, that I broke up the compromise because of a wrangle over the fee. There was special reason that the wrangle was over—the *taking of what I called and yet believe, an illegal fee*. The statement that I was seeking to take thirty per cent. and give them five per cent. is untrue, because I never claimed that the law would give thirty-five per cent. I thought there was some doubt whether you would be given ten per cent. or twenty-five per cent.

JUDGE SCOTT DISMISSES PENALTY SUIT.

The case was set for trial November 3rd, 1900, and a plea in abatement was filed by A. M. Finlay in which he set up the dissolution of the old company and the reorganization of the new company. I filed a motion for a continuance. They filed that plea the day the case was set for trial, or the day before, I am not certain which. I asked for a continuance on the ground that the State proposed to show that the new was the same as the old, the property was the same, the stock ownership the same, the agents the same, general property and personnel, and so on—all the same. The motion for a continuance was overruled and the suit was finally dismissed about the middle of November. Judge Scott said that he would hold the matter in abeyance for ten days from the 5th, to give the Waters-Pierce Oil Company an opportunity to settle up its taxes in this State.

ALL PAPERS DISAPPEAR.

When Mr. Pierce was making the statement that the Standard was a separate concern from the Waters-Pierce Oil Company, when Mr. Bailey was present, I called attention to the fact that this contention was not true—that it was a subject of general notoriety. Mr. Pierce's own testimony before that time and Rockefeller's admission before the Congressional Committee; and the depositions on file in the case [there at Waco] showed the connection between the two.

All the papers in both the civil and criminal cases have disappeared.

Rice's deposition showed first the testimony of John D. Rockefeller before the Senate Committee of the State of New York, that the Waters-Pierce Oil Company was a party to the Standard Oil Agreement. A copy of that agreement was made part of the deposition. [Then on file at Waco, when Bailey was there.]

Rice's deposition also showed the admission made by H. Clay Pierce before a congressional committee that the Waters-Pierce Oil Company was a member of that trust, and that the Standard Oil Trust owned in part the Waters-Pierce Oil Company. That investigation was made in 1887-1888. [And the report thereof was part of the con-

gressional record before Bailey was elected to Congress.] The depositions further showed the statement made by Mr. Pierce and Mr. Archibold, I think, that the Waters-Pierce Oil Company had the exclusive control of the southwestern territory, including Missouri, Arkansas, Indian Territory, Texas, part of Louisiana and Mexico. I remember one statement made by Mr. Pierce's depositions, that the Standard Oil Company paid fifteen mills a gallon freight rate from St. Louis to Houston, and the George Rice concern had to pay fifty-seven mills.

I had no part whatever in these charges being filed, no conversation or consultation with anybody who filed them; never conferred with Mr. Cocke in my life beforehand.

Henry & Stribling quit the case on October 3rd, 1900, on written request to them from myself to withdraw from the case. I reviewed briefly their efforts to make what I called an improper compromise. I felt like they were not loyal to the State of Texas.

I could not understand why it was that when on the morning of May 3rd, Mr. Pierce offered to pay the State \$10,000 and to pay them \$3,000—why that night they offered to dismiss it and let the State lose \$10,000, or nine, and themselves lose three.

In the Pacific hotel conference between Mr. Henry, Mr. Stribling, Judge Scott and myself, when they, that is either Mr. Henry or Mr. Stribling, mentioned that the first they had heard of a compromise brewing was through Judge Clark sometime before, when he said that if the attorneys felt like they could dismiss the penalty suit, why, as they had done a good deal of work in it, they ought to get \$1,000 apiece. After they told me that I went to see Judge Clark. I expressed myself as to that statement, that proposition, being of course a very improper one. I said, "Mr. Stribling tells me that you suggested to him that if this civil suit could be dismissed, we could get \$1,000 apiece—I says, I want to know if you said that." "O," he said, "Thomas let that pass,—I was just feeling Strib." [From after developments it is quite clear that "Strib" felt satisfactory to this pervertor of justice and bribe giver.]

CONGRESSMAN HENRY EXHIBITS STANDARD OIL TRUST AGREEMENT OF 1882 TO BAILEY WITHOUT CONVINCING HIM.

Congressman R. L. Henry from the Waco District voluntarily came from Washington and at his own request was sworn as a witness, and testified (Bailey Investigation Committee Report, 1907, pp. 704-726) in part as follows:

My name is R. L. Henry; my home Waco, Texas. I have been a member of Congress for ten years the fourth of the coming March.

When I was elected to Congress and took my seat, I abandoned the practice of law except in some cases that I had to try, that I felt personally that I should try. [So also did Bailey abandon the practice of law. Indeed, he had already abandoned that before he ran for Congress, but he has never abandoned the practice of influence.]

I was assistant Attorney General in 1893 and 1894, appointed by Governor Hogg. In the fall of 1894 either Governor Hogg or At-

torney General Culberson wired me to go from Tyler, Texas, to Waco, and look into some anti-trust violations of the law by the Standard Oil Trust officials and the Waters-Pierce Oil Company, or its officials. My home was then in Texarkana. I had not removed to Waco. I went to Waco upon receipt of a telegram and went with the grand jury from day to day and after being there a number of days,—I do not remember how many—the grand jury decided to indict the officials of the Standard Oil Trust—John D. Rockefeller, H. H. Rogers, Archbold and the others; there were nine of them; and also the officials of the Waters-Pierce Oil Company—H. C. Pierce and Andrew M. Finley and some others. In January, 1895, I removed my residence to Waco, located there, and being conversant with the anti-trust statutes to some extent, I had run across a section of the act of 1888—I think it was passed under Gov. Ross' administration—authorizing a suit for penalties against any corporation, firm or individual, who violated the anti-trust law. Mr. J. W. Taylor was the county attorney of McLennan county, at that time. I called his attention to this section of the anti-trust law authorizing penalties at the rate of \$50 per day for the violation of that statute, and asked him if he did not desire to bring suit against them. He said he did, and stated that he would turn the matter over to my firm if we wanted to bring the suit and we would divide the fees. He entered into an agreement—an oral agreement—that the firm of Henry & Stribling were to have two-thirds of whatever commission the statutes allowed, and Mr. Taylor was to have one-third. I drew the petition myself for our firm and filed it sometime in April, 1895. It was for \$109,500, the penalties at that time accrued amounting to that much, and, of course, we asked for \$50 a day for each succeeding day that they violated the statute, but at that time they amounted to \$109,500. We brought this suit. We took depositions amounting to hundreds and hundreds of pages. We took the depositions of a number of witnesses in Texas. We took the depositions of the former Attorney General of Ohio, who was then a member of Congress from that State, D. K. Watson, and he went into the evidence at great length. He had brought a suit against the Standard Oil Company of Ohio and had succeeded in the litigation and driven them beyond the limits of the State of Ohio, and was very familiar with all of the testimony and all of the Standard Oil Trust agreements. He heard the witnesses testify and we proved a number of admissions by him. We took the testimony of George Rice, an independent oil refiner of Ohio. He had attended the sessions of the court in this litigation and heard every witness testify, practically. He had attended the sessions of an investigating committee by Congress in 1888, inquiring into the Standard Oil Trust operations, and had heard all of the witnesses testify, including Rockefeller, Archbold, H. Clay Pierce and others, and we proved admissions by him. We took his daughter's testimony, Mrs. G. C. Butts. She had heard a great deal of this testimony. And, to be brief, the testimony amounted to hundreds of pages and it was on file in the

district court there, in Judge Scott's court. I have not seen it for a long time, and do not know what has become of it.

While passing through Waco from Milam to Bell county, April 29, 1900, during my canvass for Congress, I went out to see Mr. Stribling, my law partner. He was sick in bed. He handed me a telegram from Senator Bailey in which Senator Bailey requested him—it was dated Parsons, Kansas,—in which Senator Bailey requested him to meet him at Hillsboro and ride down on the train with him as he, Senator Bailey, wanted to talk to him, Stribling, and Mr. Stribling asked me to meet Senator Bailey. I went to the train, the M. K. & T. Flyer, and did see Senator Bailey. That was the night of the 29th of April, 1900. I do not think I can be mistaken about the date, but it was Sunday night, at any rate. Senator Bailey stated to me that he was going on to Austin on some political matters. [Observe that Mr. Bailey was very careful on that trip to always try to impress upon his auditors that he had returned, being then absent from his public duties while Congress was in session, *upon political matters*. He was equally careful to say nothing of the \$3,300 that he had borrowed (?) from Pierce, insolvent stranger that he was, the first time they ever met.]

Mr. Bailey said he was going on down to Austin. I said, "Well, we can not talk any now. You get off and stay all night with me." I induced him to get off and he went with me to the Pacific hotel, where I had a room, and I think they gave Senator Bailey an adjoining room to me. I remember very well where the rooms were located. That was on April 29th. Either that night or the next morning Senator Bailey said that Governor Francis had stated to him that Mr. Pierce was in trouble down here about his company—H. Clay Pierce—and that he would like for Senator Bailey to see if he could do anything for Pierce while he was here on this other mission. I knew the relationship between Bailey and Francis and Senator Bailey stated that he was doing this solely as an act of friendship for Governor Francis; that Francis had asked him to do it and he would do it for Francis just like he would for any other friend. In that conversation Senator Bailey stated that Pierce wanted to throw up his hands and "salute the laws of Texas." He used that expression. He wanted to abide by the decisions of the courts, and conform the conduct of his company to the Texas laws and Senator Bailey said that Pierce would be willing to settle the penalty suit, to compromise it and asked me if we were willing to compromise it. I said, "Certainly; we are willing to compromise it if we can arrive at a satisfactory agreement. I would be willing to settle any law suit if I could settle it on proper terms." Well, Senator Bailey said he was glad to hear that, but I said, "Before we talk any about it, I want to invite the district judge, Sam Scott, before whom the case is pending, and the county attorney, Mr. Thomas into a conference, and I do not want to say anything about this law suit except in their presence. It is a public law suit and I think they ought to hear everything that is said about it." Mr. Thomas

had no connection with the case, really. He had not read the pleadings nor the evidence, and knew absolutely nothing about it, but he was county attorney. On the morning of April 30th I went to the court house and told Judge Scott what I wanted and told Mr. Thomas what I wanted; that Senator Bailey had stated that Pierce was willing to settle this case and to settle it right, and I said, "I am not willing to take any part in this except in the presence of the district judge and the county attorney, and I want you to come to my room, or wherever you say, and we will talk it over." Both of these gentlemen came with me. We went to my room at the Pacific hotel and Mr. Stribling was there then. He was able to get out of bed and come down. We did talk it over and I said, "Whatever judgment agreed upon must be signed by the attorneys on both sides. Whatever fee is agreed on must be written in the judgment, and this being a public law suit, when that judgment is agreed on it must be given to the press so that everybody will know just exactly what has been going on." They said that was right. We talked about it a good deal and we found that Pierce was willing to pay as much as \$13,000 to the State or he was willing to pay \$10,000 to the State and \$3,000 to the firm of Henry & Stribling.

Q. Now you have gone to the second conference, have you not?

A. No; that is in the first conference. It occurred in the first conference, April 30th. Now, there was a second conference on May 3rd. Senator Bailey came to Austin. At that time I should state that Pierce and Johnson, as I understood it, were not in Waco but had come on to Austin. Senator Bailey came on to Austin. He stayed here a day or two and he returned to Waco and we had another conference on May 3rd, in the office of Henry & Stribling—quite a lengthy conference—and again I went and got the district judge and the county attorney so that they might hear everything that was said, and we talked it over before them, Pierce was there. Johnson was not there. Clark was not in the conference. Senator Bailey was there a good deal of the time,—I do not just know how much of the time, but he was there and talked about it. We discussed the terms for a good while. At first I had thought that \$12,500 for the State and \$3,000 for Henry & Stribling ought to be given, but Judge Scott spoke up and said, "No, gentlemen; you know I have tried the Hathway case and know all the facts as well as any of you, and if Pierce will give \$10,000 and \$3,000 to the firm of Henry & Stribling that will be a good settlement for the State and I will approve of it." [Observe that Judge Scott argued with Henry against Henry's \$12,500 proposition in favor of Pierce's \$10,000 proposition. The books of the Waters-Pierce Oil Company (See Hutchinson's testimony) showed that Johnson distributed \$2,067 of the Waters-Pierce Oil Company's money in Texas, March 1 to June 1, of 1901. This was entirely apart apparently, and in addition to what Bailey procured for himself, ostensibly for Stribling. As to whom or for what purpose Johnson distributed that \$2,067 the record is silent.]

The witness, Henry (continuing)—Now after that, after the case could not be settled that way, I went back to Washington and was there during the first week of June, I think. I think I just did get back and Congress adjourned—it adjourned on June 7th, 1900.

HENRY & STRIBLING WITHDRAW FROM WACO PENALTY SUITS AS ATTORNEYS FOR THE STATE OF TEXAS.

On October 25, 1900, Mr. Thomas sent this letter to our firm, which I will ask to be made a part of the record, and which if you have a clerk I would like for him to read.

The letter referred to was thereupon read, and is as follows:

"Office of Cullen F. Thomas, County Attorney.

"WACO, TEXAS, October 25, 1900.

"*Messrs. Henry & Stribling, Waco, Texas.*

"GENTLEMEN: In the case of the State versus the Waters-Pierce Oil Company, we have differed so widely that we are unable to work together in harmony in its management and trial. Without desiring now to reopen those differences, you know now fully my views as to the impropriety of your offer to take a fee from the defendant in the attempted compromise. Again, the position taken by you pending the negotiations and afterward reiterated by you in the public press, that the State could not, should not, and would not recover more than \$10,000, would seem necessarily to hamper your usefulness, if not to handicap your efforts in a suit to recover more than \$10,000; and thus win a judgment *now* that would condemn your course *then*. For these reasons, and because of our strained personal relations, that may prejudice the State's interest in the coming trial, I desire to suggest and request that you gentlemen retire from further participation in the case. I feel that it is my right and duty as county attorney as it is my intention to conduct the trial.

As there has been some controversy as to your contract, while adhering to my understanding thereof, and waiving no rights thereunder, that there may be no unseemly wrangle on that account, and doing what I believe is the best for the State, should you retire I will concede your full claim under the contract and yield to you two-thirds of whatever fee (twenty-five per cent. or ten per cent., according to the construction) we may be entitled to under any recovery had.

I hope that you will now voluntarily withdraw. Please favor me with an early reply.

Yours respectfully,

CULLEN F. THOMAS.

(Signed.)

We declined to try the case with Thomas. He appeared on the morning the case was set for trial, which was some time about the first of November, probably the 30th of October, and after he appeared and undertook to take charge of the case, we filed this paper—presented it to the court and filed it:

"Having been notified by the county attorney that he now proposes for the first time to appear and take control of this case, and recognizing his official power to come into the case and participate in the trial, and our personal relations to the county attorney being exceedingly unpleasant and disagreeable, and being desirous of avoiding anything that might embarrass the progress of the litigation for the State, we respectfully withdraw from the case."

(Signed.)

HENRY & STRIBLING."

I desire to state that I never received in any sort of way from the Waters-Pierce Oil Company, H. C. Pierce, or any of its agents, representatives, attorneys, or any one else, any sum of money, or anything of value, at any time. [It seems that Joe and Oscar were the beneficiaries of the bounties bestowed by the munificent generosity of "My dear Pierce."]

GEORGE CLARK, TOO, CRIES "FORGERIES."

Mr. Henry (continuing)—There was two letters used in the Congressional campaign in 1902 in Falls county—a letter addressed by J. D. Johnson to Messrs. Clark & Bolinger, in which there was some expressions like: "I have arranged for the time being to settle with Henry & Stribling. This is strictly confidential." I have no idea what Mr. Johnson meant by that * * * I immediately went to Waco and asked Judge Clark about it and he gave me this letter and statement about it which I will ask to be made a part of the record:

"WACO, TEXAS, June 6, 1902.

"Hon. R. L. Henry, Waco, Texas:

"DEAR SIR: In reply to your inquiries of this date as to the genuineness of certain letters from Jno. D. Johnson, Esq., of St. Louis, to our firm or to me individually, exhibited and read by County Attorney Thomas at Mooreville on yesterday, I have to say that in the absence of the letters themselves my opinion is that they are forgeries. I have no recollection of any such correspondence; or do I remember to have ever heard of or known of any arrangements between Mr. Johnson and the firm of Henry & Stribling about any matters concerning the Waters-Pierce Oil Co. litigation here during their connection with the said litigation.

If these letters paraded by Mr. Thomas are forgeries, as I believe them to be, the offense of using them is a serious one. If they are genuine, they are the property of Clark & Bolinger, and they have been stolen from Clark & Bolinger by a thief. County Attorney Thomas knows they have been stolen and has received and appropriated them to his own use knowing the same to have been stolen. Further comment is unnecessary, as either alternative involves disgrace and criminality.

(Signed.)

GEO. CLARK."

[From the foregoing letter it will be seen that George Clark deliberately denied in 1902 the fact and the substance of his correspondence with Johnson, which both, he and Johnson, were forced to admit as genuine in their testimony before the Committee in 1907. So much for George Clark, the corporation opponent and life-long political enemy of the late lamented James Stephen Hogg.]

JOHNSON LIKEWISE PROTESTED INNOCENCE.

Mr. Henry (continuing)—

I called for unqualified denial from Johnson. Then I received this letter from Johnson:

ST. LOUIS, MO., August 18, 1902.

"Hon. R. L. Henry, Waco, Texas:

"DEAR SIR: Replying to your letter of the 14th inst., which was not received until today, I wish to say that I have neither directly or indirectly, paid nor offered or agreed to pay you or your firm any money or other consideration whatever in connection with the Waters-Pierce Oil Company litigation at Waco or elsewhere; that

I do not recall ever having talked with you on the subject of that litigation except on one occasion at Waco, when both Judge Scott and Mr. Thomas, as well as others, were present and participating. If Mr. Thomas has made charges against you contrary to the foregoing, then it is without foundation.

Very respectfully,

J. D. JOHNSON."

[A close reading of the above letter discloses the fact that Johnson did not deny having paid Stribling, his denial only applying to "you or your firm." In other words, he did not pay Mr. Henry anything and did not pay the firm of Henry & Stribling, but does not deny having paid Stribling individually.]

HENRY, STRIBLING & BAILEY MEET AT AUSTIN STATE CONVENTION, JUNE 16, 1900.

Mr. Henry (continuing)—I attended the convention held in Waco that year, [August 8th, 1900.] as well as the one held in Austin about the middle of June—probably the 16th of June. I came right on from Washington after the 7th of June and stayed at home a few days and then came down here. [to Austin.]

Yes, Mr. Stribling was here. I do not know what time Senator Bailey left Washington but I think it was shortly after Congress adjourned. He was at the State convention here. [Having come through St. Louis where he doubtless arranged the Stribling loan of \$1,500 and having come on to Gainesville he drew the famous \$1,500 draft on Pierce, June 13, 1900.]

I remember his making a speech at the State convention at Austin.

BAILEY'S NAME NOT DISCLOSED IN THOMAS-HENRY CONGRESSIONAL FIGHT IN 1902.

Mr. Henry (continuing)—I do not think his (Bailey's) name was mentioned in those letters. They were printed in the newspapers at the time. No, Mr. Bailey's name was not mentioned in the discussion. I had understood they had three letters but only two were used, and Senator Bailey's name was not mentioned, as I remember it.

HENRY MEETS BAILEY AT WACO DEPOT.

It was about 12 o'clock at night when I went to the depot. [In Waco, April 29, 1900.] I saw Senator Bailey as he stepped off the sleeper coming from the North on the M. K. & T. road. I was waiting there to meet him because Mr. Stribling was sick in bed and had asked me to meet him.

Q. You are familiar with the train schedules out of Waco and into Austin at that time?

A. Well, some of them I am.

Q. If Mr. Bailey had continued on that night, the night of April 29th, to Austin via the M. K. & T.—around by Elgin, isn't it?

A. Yes.

Q. What time would he have reached here?

A. He would have reached here about daylight the next morning.

Q. Would that have been the logical and ordinary course of travel from Waco?

A. Well, there was a sleeper that ran through over the Katy by Elgin and over the Central into Austin.

[This is the route that Bailey would naturally have taken but, as shown by Hon. Phil Clemens, he apparently changed over from the M. K. & T. to the I. & G. N. at Taylor without rhyme or reason unless it was to avoid the appearance of having come in over the M. K. & T. & Central—Mr. Pierce's private car being found the morning of May 1, 1900, in the yards of the H. & T. C.]

The road from Granger over to Austin had not then been constructed and he would probably have changed cars at Taylor and taken the I. & G. N. or could have gone to Elgin and come up the Central Railroad.

Q. Could have gone to Elgin and came up the Central?

A. Yes, sir; you could make connections both ways. I expect you probably had to wait a little longer at Taylor and a great many went to Elgin and went up on the Central. That was one of our best routes from Waco here.

Q. A better route than the other?

A. Yes, sir; because you did not have to wait as long at Elgin as you did at Taylor.

BAILEY APPROACHES HENRY ON BEHALF OF THE OIL TRUST.

Mr. Henry (continuing, p. 716)—He [Bailey] made his statement that Pierce was willing—

Q. He is the first man that approached you on the question of a compromise?

A. He is; yes, sir.

Q. Do you remember his saying in one of those conferences that he hoped that you gentlemen would not mulct the company or would not be harder on Mr. Pierce than possible?

A. I do not remember any such language as that. I remember that he was very strong in his statement that Pierce was willing to make a reasonable compromise and he hoped we would do the best we could. He said that.

Q. Were he and Mr. Stribling life-time friends?

A. Well, they had been at the law school at Lebanon together and I think had been friends for twenty-odd years.

Governor Francis was in Washington a great deal. I do not remember who introduced him to me, but he was around there a great deal and I talked to him frequently and I became well acquainted with him and had heard him speak of Senator Bailey and had heard Senator Bailey speak of Governor Francis, and I had seen them together socially, chatting.

Q. Did you see the telegram from Parsons, Kansas, from Mr. Bailey to Mr. Stribling?

A. Yes, sir; my recollection is that I did. He handed me the telegram and stated he had phoned Nelson Phillips of Hillsboro, who was Tom Smith's partner, that he could not come. That was before I got in from Limestone county. I got in at 4 o'clock Sunday afternoon and he stated he had phoned Nelson Phillips to see Bailey and find what he wanted.

Q. Nelson Phillips was an ex-partner of Tom Smith, then Attorney General?

A. Yes, sir, Nelson Phillips was an ex-partner?

HENRY KNEW AND ADVISED BAILEY THAT WATERS-PIERCE WAS A MEMBER OF THE STANDARD OIL TRUST.

Mr. Henry (continuing, p. 717)—

Q. Did Mr. Bailey make any inquiry as to your researches with reference to the connection between the Waters-Pierce Oil Company and the Standard Oil at that time?

A. I do not think he did. I do not know that I stated it even.

Q. You then had on file these voluminous depositions from Attorney General Watson of Ohio and Mr. Rice?

A. Yes, sir.

Q. Those depositions established pretty conclusively that connection, did they not?

A. Well, I do not think there was the slightest doubt about it.

Q. Did you argue the connection with Mr. Bailey at any time during either of these conferences?

A. I stated the connection as I believed.

Q. Gave it as your belief that there was a connection?

A. I did.

Q. Did he argue the points with you?

A. He said this—he said that Francis had told him he could believe Pierce; that Pierce stated that his company was not connected with the Standard Oil Trust. I stated that I thought it was.

Q. And still thought so at that time?

A. Still thought so at that time and think so now. I think the testimony showed beyond the peradventure of a doubt that the Waters-Pierce Oil Company was a constituent part of the Standard Oil Trust. If I had not thought so I would not have brought suit. I wrote the indictments, I interrogated all the witnesses, brought witnesses from St. Louis, Ohio, and all around, and it showed beyond any sort of controversy that the Waters-Pierce Oil Company was a member of the Standard Oil Trust.

HENRY SHOWS BAILEY STANDARD OIL TRUST AGREEMENT.

I got a copy of the original Standard Oil Trust agreement of 1882 and a supplement to it and I said to Senator Bailey, "This agreement itself shows the connection between the Standard Oil Trust and the Waters-Pierce Oil Company," and he took issue with me. He said, "Let me read it." I do not think he had ever seen that agreement be-

fore. I think that he remarked that he had not. He read it and said, "This is divided into three classes; first, a number of corporations which have gone boldly into the Standard Oil Trust, and another class of private individuals who have gone into the Standard Oil Trust—that would be two classes—and third, a part of the stockholders of the following corporations entered into the Standard Oil Trust agreement and among them under the heading 'a part of the stockholders of the following companies' was the Waters-Pierce Oil Company, meaning a part of their stockholders had took stock in the Original Standard Oil Trust." Now, I suppose you are familiar with that agreement and the way it was drawn up and their method. They took a number of corporations, a number of limited partnerships and a number of stockholders, and they formed what they called the Standard Oil Agreement. The agreement was written by the eminent lawyer who died the other day, S. C. T. Dodd. He was the attorney of the Standard Oil Company of Ohio at that time and they were the ones who originated this trust. All of these companies when they entered the trust, surrendered their stock in all the companies—I mean those who went in as a whole—and those who went in as a part put their stock in, and then the Standard Oil trustees, nine of them, issued certificates of the Standard Oil Trust to these people, and my contention was that a part of the Waters-Pierce Oil Company stockholders had gone into the original agreement, which was shown on the face of it, and that trust certificates were issued to them.

Q. You gave it to him as your conclusion, after an investigation of the facts, did you, that there was a connection?

A. I said, "We think so. We think we can maintain this suit." That was the reason I was so anxious for them to settle, after we thought our case had died. We wanted to get something out of it for all that work we had done, in a legitimate way, of course.

HENRY KNEW NOTHING OF STRIBLING'S MONETARY DEALINGS WITH
WATERS-PIERCE.

Mr. Henry (continuing)—

Q. Did you know anything of Mr. Stribling having made a trip to St. Louis in November following your withdrawal from the case?

A. I did not.

Q. You did not at that time?

A. I did not at that time, I will tell you why I say it. Immediately after I withdrew from the case my little girl was stricken with diphtheria and I was confined and quarantined at my home for probably all of the month of November. The doctor would not allow me to go outside of the gate. People were very much excited. There had been several fatal cases there. I remained indoors during the whole month almost of November, and just as soon as the doctor said that I could go to Washington City to attend the short session of Congress, I went from my residence to the train without going down in town and went on to Washington and Mr. Stribling said nothing to me about the trip to St. Louis.

Q. When did you learn of Mr. Stribling having received the \$3,100?

A. When he made his statement here.

Q. That was the first you ever knew of it?

A. Yes, sir. He may have said to me in a general way that he had some professional employment with them, but he did not go into details about it. It was a matter of his professional employment and I knew absolutely nothing about it and had nothing to do with it; never got one cent of the fee, and the first knowledge I had of it was his statement here.

ATTORNEY GENERAL CROW OF MISSOURI DENIED THE LEGALITY OF SO-CALLED WATERS-PIERCE DISSOLUTION IN 1900.

Mr. Henry (continuing, p. 722)—He [Attorney General Smith] had gone to Jefferson City to see Attorney General E. C. Crow about the dissolution of the Company. [In the summer of 1900 after it had gotten back into Texas] whether it was legal or not, had made a special trip there, and Crow, who was the Attorney General of Missouri, did not believe that the statute of Missouri had been complied with and we [Henry & Stribling] did not think so. Tom Smith thought so, but we did not agree with him.

BAILEY DID NOT INSPECT DEPOSITIONS THEN ON FILE.

Q. Where were the depositions in the case at the time?

A. They were in the district clerk's office.

Q. The depositions were then on file?

A. Yes, they were on file. Any one could have gone and seen them, you understand. There was no trouble about that, but ordinarily no curious person would be looking around to read a thousand pages of depositions in a case like that. [These depositions afterwards mysteriously disappeared and as they conclusively proved to Mr. Henry's mind the connection between the Waters-Pierce and Standard Oil Company, they seem to have been abstracted or withdrawn from the office of the district clerk at Waco and thus gotten out of public view. Perhaps George Clark stored them away in furtherance of their general scheme to cover up the fact that the Waters-Pierce was the southwestern branch of Standard Oil.]

If it had not been for that plea in abatement, if the company had not been dissolved in Missouri, I believe we could have shown that we were entitled to recover the whole amount, and I never did doubt that for a single instant.

Re-examination by Mr. Cocke:

Question—Judge Scott did in fact refuse to continue the case upon the application of Mr. Thomas, did he not?

Answer—I think so; I think he refused.

Q. Did Mr. Bailey say anything to you at that time about having just borrowed \$3,300 from Mr. Pierce, or any sum of money?

A. He did not.

Q. Did he say anything to you about Mr. Francis having agreed to assist him in buying the Gibbs ranch property in Dallas county?

A. Well, no; not then. I think after all these matters were printed in the papers we talked about those things several times, but I do not remember just when nor what was said.

Q. Nothing was said then?

A. No.

Q. You did not know of his obligation to either of those parties?

A. No.

Q. Mr. Bailey did not tell you at that time of having borrowed \$8,000 from Pierce just before he came to Texas?

A. No, sir.

BAILEY AND HIS LAWYERS REFUSE TO PRODUCE DOCUMENTS.

On pages 727 and 728 (Bailey Invest. Com. Report, 1907), will be found the following proceedings:

Mr. Cocke presented the following notice to produce, to-wit:

"The State of Texas,
County of Travis.

Senatorial investigation of J. W. Bailey, pending before the Investigating Committee of both the House of Representatives and the Senate, Thirtieth Texas Legislature.

To J. W. Bailey, or Messrs. Odell, Hanger, and Jones, his attorneys of record, Austin Texas:

You are hereby given notice to produce a receipt for thirty-three hundred dollars (\$3300) dated St. Louis, Missouri, April 25, 1900, executed by J. W. Bailey to H. C. Pierce of the Waters-Pierce Oil Co.

Also sight draft for fifteen hundred dollars (\$1500) dated Gainesville, Texas, June 13, 1900, drawn by J. W. Bailey on H. C. Pierce or the Waters-Pierce Oil Company in favor of parties unknown to complainant.

Also all letters, telegrams and correspondence received by J. W. Bailey during the years 1900 and 1901, as well as since that time from H. C. Pierce, J. D. Johnson, A. M. Finlay, D. R. Francis, Geo. Clark, Clark & Bolinger, O. L. Stribling, R. I. Henry, Henry & Stribling, Geo. Armstead, the latter of Dallas, Texas, or either of them in any wise affecting or appertaining to the relations existing between them and the said J. W. Bailey, or either of them individually, or between either of them and the said J. W. Bailey and the Waters-Pierce Oil Company, or between either of them and the said J. W. Bailey and the political situation in Texas in 1900 and 1901, or the readmission, litigation or legislation affecting the Waters-Pierce Oil Company, or the Standard Oil Company, since, and including the year 1899 to the present time.

Also all letters, telegrams and correspondence received by the said J. W. Bailey from H. C. Pierce, John H. Kirby, B. F. Yoakum, James Campbell, Pat Calhoun, or the Kirby Lumber Company from and after the year 1901 to the present time.

Also all letters, telegrams and correspondence from H. C. Pierce, ——— Van Blarcom, The Tennessee Construction Company, The Tennessee Railway Company, its bond-holders or creditors or either of them, as well as from the Railroad company, or the officials thereof, to whom said Bailey sold or leased the Tennessee Central Railway Company and its properties.

Also all letters, telegrams and correspondence received by the said J. W. Bailey from H. C. Pierce, John H. Kirby, The Kirby Lumber Company, The Southwestern Oil Company, The Houston Oil Company, The Waters-Pierce Oil Company, or J. D. Johnson, Andrews, Ball & Streetman, or either of them affecting the Southwestern Oil Company in any manner whatsoever.

Also all telegrams, letters and correspondence received by the said J. W. Bailey, or his attorneys, or either of them, since the first of January, 1907, from H. C. Pierce, J. D. Johnson, A. M. Finlay, George Clark, O. L. Stribling, regarding the re-election or investigation of the said J. W. Bailey, in any manner whatsoever.

WM. A. COCKE.

*Informant and Member of the House,
Thirtieth Legislature of Texas."*

Mr. Cocke—Mr. Chairman, I suppose the constitutional right of the people to peacefully assemble and petition their representatives is still recognized in this country and before this tribunal and inasmuch as some twenty-eight citizens of Mt. Calm, in Hill county, have forwarded me a resolution adopted at a public meeting and asked me especially to present it to the Committee in open session, out of deference to that request I present the same and ask that the clerk read it to the Committee.

The petition was submitted to members of the Committee and opposing counsel for inspection.

Mr. Hanger—We object to it being read. It has got nothing to do with this investigation. It is an insult to this Committee that has absolutely no place here and is not true.

The Chairman—I do not think that has got any bearing on this thing, and if it did have I think it would be wrong for outsiders to petition this committee to do anything. I do not think we are concerned with it.

Mr. Cocke—I want to be understood as merely presenting it out of deference to the request of the people who sent it, and who believe and I believe have a constitutional right to be heard by their representatives under the circumstances.

HONORABLE D. H. HARDY, SECRETARY OF THE STATE OF TEXAS IN 1900,
TESTIFIES.

Hon. D. H. Hardy, who was secretary of State in 1900, at the time the so-called dissolution, reorganization and re-entry into Texas took place, testified (Bailey Investigation Committee Report, 1907, pages 373-379) in part as follows:

He [Bailey] was in Austin about the latter part of April or first part of May. He simply came into the department and had a conversation with me and in the conversation he asked about what was the *temperament or disposition of the administration and my disposition* with reference to permitting the Waters-Pierce Oil Company to come back into Texas and do business here on condition that they would give substantial assurance of complying with the laws of the State. [It will be noted from this that Mr. Bailey did not ask about the legal status of the relationship between the State and this outlawed trust, but was seeking to know "the temperament or disposition of the administration," thus clearly indicating that it was not legal talent he was exerting for them but personal and political influence.]

I do not believe that the question of the relationship [between the

Standard Oil and Waters-Pierce Oil Company] was expressly stated. It necessarily must have had reference to the fact or supposition that there was some relation between them, but I am quite confident that nothing was said about the Standard Oil Company *in words*.

I told him [the Attorney General] "I pass it up to you. It is for you to say. My opinion is the permit will have to be issued. The papers are all regular." [But the facts now appear to have been very irregular.] The papers showed that Mr. Pierce had subscribed for the whole 4,000 shares except four of them. Then I went back to Mr. Pierce [who with Clark and Johnson was waiting in the office of the Secretary of State] and I said: "Now, Mr. Pierce, we know all about this old Company and we know the Standard Oil Company did have a whole lot of stock in that," but Mr. Pierce sat right there and asseverated to me for one-half hour that he had taken up everything; that the Standard Oil Company had nothing to do with it, and no other corporation had anything to do with it, and he and those men were the owners of all that stock *in good faith*. He claimed that he owned those 3,996 shares of the stock in his own name and not as agent for anybody and that his holdings were bona fide; that was his statement; he not only claimed that, but claimed every dollar's worth of stock, that ever had been owned by the parties which formerly constituted the old Waters-Pierce Oil Company, had been taken over by him and the Standard Oil Company and any other company had no interest in it whatever. So I said to him, "Mr. Pierce, that is all right, you will have to subscribe to the anti-trust affidavit." He says, "*I will do it cheerfully.*" [So he was not only a ready but a "cheerful" liar.]

Yes, Mr. Johnson was present when these statements were made. I will say, by mannerisms and demeanor, that he was assenting. Certainly, he and Judge Clark both created the impression, upon my mind, that they themselves both understood the fact that Mr. Pierce's statement there was true, that they knew enough about it to know it was true. I did ask him [Pierce] questions with respect to the stock-ownership of the Company and am absolutely positive that those questions were direct as to whether or not the Standard Oil Company was in fact interested and part proprietor of the Waters-Pierce Oil Company.

I know from statements to me by Attorney General Smith that he and Mr. Bailey were close personal and lifelong friends. My impression is that Mr. Smith was a Mississippian. I do not know whether or not they were at college together.

I relied conclusively in the matter of issuing the new permit or the permit to the new Company upon Attorney General Smith's opinion about the matter and my own. We must have recognized the fact that whenever a proposition came up to the Department and was turned down, that the jurisdiction was directly in the Supreme Court to mandamus me if the person I turned down thought I was wrong about it. I had been mandamusd several times while I was in office, and generally the Supreme Court did not turn me down,

but one time it turned me down. *If I had refused them a permit they would have had a judicial remedy; they could have filed their petition for a mandamus before the Supreme Court.*

Q. You knew who they were. Of course, you knew they were an ousted corporation and Mr. Pierce was under indictment, didn't you?

A. Well, Mr. Pierce at that time—I do not remember whether I knew he was under indictment or not. [If Mr. Bailey and Attorney General Smith had recommended to Secretary of State Hardy that he refuse the permit and require this outlawed corporation to go before the Supreme Court of Texas upon a judicial hearing of the law *and the facts* involved in their alleged right to do business in Texas, the story of this senatorial controversy and shame would have never been written. In that event, whatever the decision of the Supreme Court, the responsibility for conclusions reached would not have involved Mr. Bailey's personal and political influence, at least in this case.]

Mr. Smith afterwards told me, when the political controversy came up and the matter got into politics, about having talked with Senator Bailey. I undertake to express no opinion as to whether or not there was fraud behind the certificate of dissolution which was presented to me under the seal of the State of Missouri.

The amendment of the charter of the old Waters-Pierce Oil Company [which amendments were on file in the Attorney General's office] showed that the Standard Oil Company through such parties—I have forgotten the names now—owned stock in that corporation and the articles of incorporation showed that the Standard Oil Company did have a very large block of stock in the old Waters-Pierce Oil Company. It was my opinion that the Waters-Pierce Oil Company was a party to the trust agreement with the Standard. *It was a company recognized as one of the Standard Oil Companies.* I am satisfied that the papers are right here in this Capital building now, but it is my recollection that they showed the proportionate amount of the stock that the Standard Oil Company had in this old Company.

BAILEY CALLS ON HARDY IN JANUARY OR FEBRUARY, 1900.

In a letter to the public press of Texas (Dallas News, October 25, 1907), Honorable D. A. Hardy, Secretary of State in 1900, replying to the published letter of H. C. Pierce, nominally addressed to Governor Campbell, St. Louis, November 15th, said:

"I make this communication for the purpose of keeping the record straight. Mr. Pierce's statement, in so far as it refers to the circumstances of the issuance of the permit, by me, to the (new) Waters-Pierce Oil Company, is wholly untrue. He says that Senator Bailey "made an honest presentation of the facts to Secretary of State Hardy and Attorney General Smith, and in doing so was actuated by a desire to grant a favor asked of him by Mr. Francis, and to see that injustice was not done to a company which had grown up with Texas."

This statement is not only incorrect, but it is, further, an injustice to Senator Bailey. The Senator made no presentation of the facts to me whatever. His visit to me was some time in January or February. His remarks to me had reference to the "old" Waters-Pierce Oil Company. He, in substance, only asked me what were the probabilities of my issuing a permit to the company, if they now made an application, and would agree to come into the State and obey all her laws. My answer, as repeatedly stated heretofore in public print and otherwise, was that there were none. That the permit of the Waters-Pierce Oil Company to do business in Texas had been annulled and canceled by judgment of court, and that I did not think there was power anywhere in Texas outside of the Legislature to lift or call that judgment satisfied, no difference what promises it might make."

From the foregoing it would seem that Bailey had become interested in this Waters-Pierce litigation long before April 25, 1900—the date he was supposed to have first met Pierce and to have "borrowed" \$3,300 from the wealthy stranger. In this connection it is well to remember that Gruet testified that Pierce told him that he, Pierce, had introduced Bailey to the Standard Oil officials at 26 Broadway late in the fall of 1899 or the early part of 1900. Mr. Hardy's statement above corroborates this suggestion of an earlier understanding between Pierce and Bailey than has been popularly supposed.

S. B. KEMP, ESQUIRE, TESTIFIES CONCERNING TRAVIS COUNTY CAMPAIGN.

S. B. KEMP

testified before the Bailey Investigation Committee (Report 1907, pages 385-387) as follows:

I have lived in Austin about ten years. I know Senator Barrett. [The State Senator from Fannin County, Mr. Bailey's candidate for Congress against Congressman Randell in that district.] I also know Captain James Lucy. I know in a general way that Mr. Barrett was in the county making public addresses at different places, but whether Mr. Lucy took any active part—I know I conversed with him during the campaign. Captain Lucy advertises himself as the State Representative of The American Surety Company.

[This is the company in connection with which John H. Kirby made the Waters-Pierce Oil company, a three and one-half million dollar bond in the ouster suit, 1907, which bond was perfected at Ft. Worth in the office of Capps, Cantey & Hanger, which latter firm was employed on behalf of the Waters-Pierce Oil company or some of its stockholders, in the litigation before Judge Bryant. Thus we see Mr. Bailey's friends and Mr. Bailey's lawyers (Mr. Hanger having been one of his three attorneys before the Investigation Committee of 1907) find fat places with the oil trust. John D. Johnson is said also to be interested in the American Surety Company.]

Before the primary election [in which Bailey was running for an instructed vote, on the part of Travis county representatives in the 30th legislature, in which election Mr. Bailey was defeated, even before his second investigation,] about six o'clock in the afternoon Senator Barrett came in to the Turf Exchange. He said to the man in charge, "Could I get you to cash a small check for me?" Dodson looked at the check and said, "Is this Captain Lucy here in Austin?" Mr. Barrett answered it was, and he cashed the check. I believe it was for \$50.00.

[Senator Barrett afterwards testified that he cashed two of Captain Lucy's checks, each for \$50.00, and spent the money for stamps in sending out Bailey literature in that campaign.]

The next day Senator Barrett was making speeches in that county.

At that point in Mr. Kemp's testimony the following interesting colloquy occurred, illustrative of the temper of Bailey's partisan Committeemen.

Q. Do you know where Senator Barrett spent Saturday, the day of the election?

A. No, sir; I do not.

Mr. Wolfe: It seems to me you ought to get down to Senator Bailey. Just come right down to the point. I do not care where he spent the day, nor the night either.

Mr. Cocke: I expect later and I think I will be able to show Mr. Lucy was the local campaign manager.

Senator Stone: If he was, what has that got to do with this investigation?

Mr. Cocke: It is under the allegation that these funds were spent here; that he was one of his three or four campaign managers, and there is another incident to be drawn out just a little later. It may all be proper. I do not want to reflect on Senator Barrett or on Mr. Bailey, but I feel that I am doing a public duty in trying to find out whether they are true or false.

Q. Do you know anything about Senator Barrett loaning or advancing anybody money about the polls on Saturday following?

A. No, sir; I do not know.

Q. You have no personal knowledge?

A. No, sir.

Q. Do you know how the vote stood in Austin as regards the majority for or against Mr. Bailey in the slum wards or the better class wards of the city?

A. I do not believe I could answer the question anyway.

The Chairman: It is not a proper question, and I will not allow it.

Mr. Cocke: The purpose of the question, I would like to state, is to show that the intelligent, high class wards went two to three against him.

Mr. Wolfe: We object to him making the statement now.

The Chairman: I have overruled the question.

Mr. Cocke: I just want to state the objec.

The Chairman: I think I fully understand what it is.

MR. J. GREGG HILL TESTIFIES ABOUT TRAVIS COUNTY CAMPAIGN OF
JANUARY 5TH, 1907.

MR. J. G. HILL

a prominent business man of Austin of unquestioned veracity, testified (Bailey Invest. Com. Report, 1907, pages 407-409), in substance as follows:

In regard to the Begley-Barrett money matter I will simply state this: On the day of the election I was in the store room where they were holding the election. I was standing sideways and so I could see. Mr. Barrett was standing to my left and Neal Begley walked in the front door. Begley nodded to Barrett and he went over in that direction. That threw Barrett's back to me. I saw Neal Begley's hand go up right in front of Barrett this way; I couldn't see his hand proper, I could the rest of it back this way. I could see Barrett's hand go down in his pocket and come out; I heard the money rattle. I was standing I suppose ten feet from them. I didn't see the money, I heard the rattle, I will swear three times, and it sounded to me like four or five times. Neal's hand went down in his pocket, and he then went out in front, and got on the back end of a wagonette that was full of Confederate soldiers. In the meantime Barrett turned around and I mentioned the subject of money being used in the election. He says, "O, no, Hill we are not using any money." I says, "O, come off, Barrett; I saw you give the fellow money." He laughed and said, "I lent him some money." He didn't tell me at the time what the amount was. I says, "Now, Barrett, you know there isn't any law against using money in the election here to-day; what do you want to call it a loan for?" He says, "I will tell you what I did, Hill, I told him to take that money and treat those old fellows." That was the end of our conversation. Later on during the day I met Neal Begley in Seelig's cigar store on Congress avenue. I brought the subject up to Neal. He looked a little surprised at first, and I says, "O, well, I know all about it Neal," I says, "There is no use in denying it." He says, "Well, I borrowed five dollars from Senator Barrett." He made that admission in the presence of the owner of the cigar store. I says, "That is what Senator Barrett said at first; in the first place, it was a loan, and he then said he had told you to take that money and treat those old fellows," and he says, "That's what I did with the money." Later on during the afternoon, that night, I think, after dark, I met Senator Barrett on the street, and he asked me the name of the man that he had loaned the money to. That was all there was to it.

J. GREGG HILL

on examination by Mr. Cocke, testified as follows:

Q. Did you pay any of your speakers during that campaign?

A. No, sir; we did not.

Q. Did you pay my expenses during that campaign?

A. We did not. I offered to and you refused to accept it.

Q. It is charged here, Mr. Hill, that the activities on the part of Senator Bailey's managers was unbecoming that of a United States Senator; I would like to know whether or not their activities, if you know, were most successful, and in what parts of the city their activities were most in evidence?

Objection was offered to this question and the objection was sustained by Chairman O'Neal.

BAILEY AND WATERS-PIERCE BANK AT THE SAME PLACE.

MR. E. M. REARDON

of Dallas, Texas, testified to the Bailey Invest. Com. 1907, page 569, in substance, as follows:

I reside in Dallas; am vice-president of the American Exchange National Bank. The Waters-Pierce Oil Company has had an account with us for many years. Mr. Bailey has done some business with the bank for many years, but not active check account. That was the bank where the Gibbs Land deal checks passed through. Senator Bailey has had business relations with our bank ever since I have been in it, *but not in the regular way.*

B. F. MC NULTY, "SPECIAL AGENT" OF WATERS-PIERCE OIL COMPANY,
APPEARS BEFORE THE COMMITTEE.

MR. B. F. MC NULTY.

having been summoned to appear before the Committee by the proponent of the charges, was sworn and testified (Bailey Invest. Com. Report, 1907, pp. 498-500), in substance, as follows:

I am special agent of the Waters-Pierce Oil Company for the State; have held that position about fifteen months. I give all my time to the business of the Company. I supervise the agents, look after the differences of the agents, between them and their trade, look after the property and inspect and report on the condition of property, and make general suggestions about the trade and property. Mr. B. F. Yoakum is the first gentleman who recommended me for the place. I wired Mr. Bailey and asked him if he would give me a recommendation and I did not receive a reply, he was away from home—I didn't receive a reply until after I had been employed by the Company.

Q. Isn't it a fact that you were refused the position, Mr. McNulty, until Mr. Bailey should endorse your application?

A. No, sir! no, sir.

Q. You don't know whether or not Mr. Bailey communicated as a matter of fact with the management of the Waters-Pierce Oil Company, do you, on your application?

A. No, sir; I do not—

Q. You can't tell whether he did or not?

A. I never heard of it if he did. I wired him first and asked him if he would give me a recommendation.

Q. Where did you wire him to?

A. I wired him at Gainesville, Texas.

Q. Was he supposed to be there then?

A. I thought he was, I didn't know whether he was or not. I asked him if he would give me a recommendation and he wired back he would, but I didn't get the answer until after I returned from New York and I had been already employed by Mr. Pierce.

Q. You went to New York to see Mr. Pierce?

A. I was in New York on other business, and while there I got a letter from Mr. Yoakum and Mr. House, and was employed by Mr. Pierce, told to report at the St. Louis office and they would give me—

Q. Did you tell Mr. Pierce you were acquainted with Mr. Bailey?

A. Yes, sir; I told him I could get a great many references in Texas and New York. I told him I thought I could give Senator Bailey, Senator Culberson, Governor Lanham, a great many of them, Mr. House—

Q. Do your duties require you to travel about over the State some, Mr. McNulty?

A. Yes, sir.

Q. Have you been active in Mr. Bailey's support in this senatorial controversy?

A. No, sir; not especially, only as a personal friend. I have been a personal friend of Mr. Bailey's, been a friend of his for a good many years.

Q. Did you do what you could in the local campaign here some weeks ago?

A. I don't think I did anything, Mr. Cocke; I don't think I did anything in the campaign for Mr. Bailey. I couldn't very well do it, the position I was in.

Q. During the past summer did you interest yourself in the attitude of the candidates for the present Legislature on the Bailey matter?

A. No, sir.

Q. Did you on the train between Austin and San Antonio or between Austin and any other point in Texas, say to Mr. Sterling P. Strong that you were traveling about and seeing that nobody was elected to the Legislature not favorable to Mr. Bailey?

A. No, sir; I did not. I never discussed Mr. Bailey with Sterling P. Strong in my life. I haven't seen him since about June.

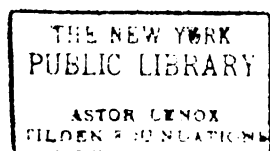
Q. Did you make that statement to anybody?

A. No, sir; I did not. It wouldn't have been true if I had.

COMMENT.—From the foregoing it will appear very likely that Bailey and Pierce conferred together about this appointment. McNulty simply didn't get a reply from Mr. Bailey until he left New York but that does not mean that Mr. Bailey may not have previously communicated with Pierce or *vice versa*.

Mr. Sterling P. Strong was summoned as a witness by the proponent of the charges and by him, according to his statement to the member of the Legislature who so informed the proponent of the charges, it was expected to show that McNulty had told Strong during the summer of 1906 that he was making it his business to travel over the State and see that no man was elected to the Legislature unfriendly to Bailey, so far as that could be done. Whether or not Mr. Strong would have so testified at Austin is not known but it is known that he so advised a member of the 30th House who had talked to Mr. Strong. Mr. Strong was seemingly very anxious to avoid testifying as repeated efforts were made to get him. (See Bailey Invest. Com. Report, 1907, p. 171).

We have the admission above from Mr. McNulty that he at least saw Mr. Strong in June, 1906, before the Democratic Primaries of July 28th.





HON. JEWELL P. LIGHTFOOT,
Assistant Attorney-General of Texas.

Great credit is due to Mr. Lightfoot for the able part he has taken under Attorney-General R. V. Davidson in the successful prosecution of unlawful combinations in restraint of trade in Texas.